United States Court of Appeals

for the Second Circuit

APPENDIX

75-1031

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In The

United States Court of Appeals

For The Second Circuit

THE UNITED STATES,

Plaintiff-Appellee,

ORIGINAL

- against -

SAMUEL WEISMAN,

Defendant-Appellant.

On Appeal from a Judgment of the United States District Court for the Southern District of New York

APPENDIX

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UNITED STATES COURT OF APPEALS
FILED
MAR 10 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

(8157) LUTZ APPELLATE PRINTERS, INC.
Law and Financial Printing

South River, N. J. (201) 257-6850 | New York, N. Y. (212) 565-6377 | Philadelphia, Pa. (215) 563-5587 | Washington, D. C. (202) 783-7288

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DATE	PROCEEDINGS		CLERK'S FEES	
			PLAINTIFF	DEFENDANT
1	THEODORE KOSS- All Counts	6-10-74 (Open Ct. 12)		
2	KOSS SECURITIES CORPORATION- 1-11	6-10-74	"	
3	STEPHEN ZARDUS- 1-11	6-14-74		
4	ROBERT SANTIS- 1, 3, 5-11 and ct. 2	5-22-74		
5	HERBERT SCHULMAN-1 3,5-11	5-13-74		
6	STEVEN ADLMAN- 1 3,5-11	5-28-74		
7	ROBERT KOLBERT-1 3,5-11	5-30-74		
8	STANLEY SCHWARTZ-1,2,3,5-11	5-13-74		
9	SAMUEL WEISMAN- 1,3,6-1	1/2/75		0
10	HAROLD LASSOFF-1,3,6-1	11-27-74		
11	MARTIN ROTH 1,3,5-11	5-29-74		
12	ERWIN LAYNE-1,3,5-11	6-14-74		
13	IRWIN HYMAN-1,3,5-11	6-6-74		
14	WILLLIAM MCGEE-1,3,5-11	6-14-74		
15	STEPHEN HAGLER-1,3,5-11	5-10-74		
16	DAN ANFANG-1,3,5-11	5-13-74		

3a ONLY COPY AVAILABLE

DATE	PROCEEDINGS
-9-73	ALL DEFENDANTS (Attys.present) Plead Not Guilty.(all) defts. ordered photographed and fingerprinted.
	Case assigned to Judge Metzner for all purposes.
	Deft.T. Koss- Bail fixed at $25,000. P.R.B. (Bail limits to include Conn)
	Deft. Zardus-Bail fixed at $15,000. P.R.B.
	Deft. Santis-Bail fixed at $20,000. P.R.B.)(Bail limits include Mass. (and a nine day trip to Denmark)
	Deft.Schulman-Bail fixed at $10,000. P.R.B.
	Deft. Adlman-(Bail fixed at $15,000. P.R.B.
	Deft.Kolbert-Bail fixed at $15,000. P.R.B.
	Deft.Schwartz-Bail fixed at $15,000. P.R.B.
	Deft.Weisman-RELEASED ON HIS OWN RECOGNIZANCE.
	Deft. Lassoff-Bail fixed at $5,000. P.R.B.
	Deft. Layne-Bail fixed at $10,000. P.R.B.(Deft. presently encarcerated (in Danbury, Conn.)Layne)
	Deft.Roth-Bail fixed at $20,000P.R.B.
	Deft.Layman-Bail fixed at $15,000.P.R.B.
	Deft.McGee-Bail fixed at $15,000.P.R.B.
	Deft.Aufang-Bail fixed at $10,000. P.R.B.
	Deft. Hagler-Bail fixed at $10,000P.R.B.(Bail limits include Arizona)
	Koss Securities Corp thru Theodore Koss,Pres. Pleads not guilty.
	Griesa,J.
Oct-9-73	ROTH- Filed unsecured P.R.B. in the sum of $20,000. - Bail limits extended to Continental USA - Clerk
Oct-9-73	~~PENA- Filed unsecured P.R.B. in the sum of $10,000. -- Clerk~~ Error oct 73-918
Oct-9-73	ANFANG- Filed unsecured P.R.B. in the sum of $10,000. - Bail limits extended to Eastern District of N.Y. -- Clerk
Oct-9-73	HAGLER- Filed unsecured P.R.B. in the sum of $10,000. - Bail limits extended to Arizona and the E.D. of NY. -- Clerk
Oct-9-73	LASAOFF- Filed unsecured P.R.B. in the sum of $5,000. - Bail limits extended to Eastern D. of NY and all of New York State.
Oct-9-73	HYMAN- Filed unsecured P.R.B. in the sum of $15,000. -- Bail limits extended to New York City Area only. -- Clerk
Oct-9-73	SCHULMAN- Filed unsecured P.R.B. in the sum of $10,000. - Bail limits extended to the Eastern D. of NY. -- Clerk
Oct-9-73	KOSS- Filed unsecured P.R.B. in the sum of $25,000. -- Bail limits extended to the SDNY, EDNY & CONN. -- Clerk
Oct-9-73	ZARLUS- Filed unsecured P.R.B. in the sum of $15,000. -- Bail limits extended to E.D. of Florida and E.of N.J. -- Clerk
Oct-9-73	KOLBERT- Filed unsecured P.R.B. in the sum of $15,000. -- Bail limits extended to E.D.N.Y. -- Clerk.
Oct-9-73	SANTIS- Filed unsecured P.R.B. in the sum of $20,000. -- Bail limits extended to to Boston, Mass., E.D.N.Y. State and Europa. -- Clerk.
Oct-9-73	ADLMAN- Filed unsecured P.R.B. in the sum of $15,000. -- Clerk.
Oct-9-73	SCHWARTZ- Filed unsecured P.R.B. in the sum of $15,000. -- Bail limits extended to E.D. of NY. -- Clerk.
Oct-9-73	McGee- Filed unsecured P.R.B. in the sum of $15,000. -- Bail limits extended to the E.D.N.Y. -- Clerk.
Oct-10-73	Layne- Filed C/A appointment of Edward Panzer, 299 B'way, NYC as counsel for defendant.
Oct-10-73	SCHULMAN- Filed notice of appearance by Stephen Gillers, Esq., 250 B'way, NYC Phone: 212-964-2246
Oct-12-73	ADLMAN- Filed notice of limited appearance for arrangement only of Ronald Podolsky, 15 Park Row, NYC - 962-3211

73 CR 903 page 8 Judge Metzner

DATE	PROCEEDINGS
Oct-12-73	ANPAO- Filed notice of appearance by Gerald Snarrel, Esq., 522 Fifth Ave., NYC 10036 - Phone: 697-[illegible]
Oct-12-73	SANTIS- Filed notice of appearance by Ira D. Feinberg, Esqs., 31 Mid St., Boston, Mass.
Oct-[illegible]-73	SANTIS- Filed notice of appearance by Richard Kaplan, Kraditore & Baker, Esqs., 595 Madison Ave., NYC 10022 Phone: 371-9700
Oct-12-73	THEODORE ROSS and ROSS SECURITIES INC.- Filed notice of appearance by Morris Weisberg Esqs. 1C Park Row, NYC 10038 - Phone 964-3022
Oct-9-73	HAGLER- Filed notice of appearance by Pryor Cashman & Sherman, Esqs., 410 Park Ave., NYC - Phone 421-4100
Oct-17-73	ROTH- Filed notice of appearance by Greenman and Arsnau, Esqs. by Paul R. Jaffe, 11 Mararoneck Ave., White Plains, NY 10601 (914-946-2500)
Oct-17-73	McGEE- Filed defendants financial affdvt.
Oct-17-73	SCHWARTZ- Filed defendants financial affdvt.
Oct-17-73	HYMAN- Filed defendants finacial affdvt.
Oct-17-73	WILLIAM MC GEE- Filed CJA appointment of John P. Moran, Esq., 300 Mad. Ave., NYC as counsel for defendant -- Metzner, J.
Oct-17-73	IRWIN HYMAN- Filed CJA appointment of Joel Winograd of Lauritano, Schlacter, Staller & Winograd, Esqs., 205 W. 34th St., NYC as counsel for defendant. - Metzner, J.
Oct-17-73	STANLEY SCHWARTZ- Filed CJA appointment of Julius Wasserstein, Esq., 26 Court St., Brooklyn, NY 11242 -- Metzner, J.
Oct-18-73	THEODORE ROSS- Filed affdvt. and notice of motion for a bill of particulars, Inspection, severance, inspection of grand jury minutes and to dismiss - ret. 10-22-73 at 10 AM in Rm 2201
Oct-18-73	THEODORE ROSS- Filed memorandum in support of above motion.
Oct-11-73	LAYNE - Filed Governments affdvt. for a H/C - writ issued - ret. 10-15-73
Oct-25-73	McGEE- Filed CJA appointment of Daniel Mitchell as Atty. for defendant. -- Metzner, J.
Oct-31-73	S. SCHWARTZ- Filed order extending defendants bail limits to include Plainfield, N.J. for the purpose of visiting her son at 652 Sheridan Ave. -- Metzner, J.
Nov-1-73	LAYNE- Filed affdvt. and notice of motion for severance.
Oct.29-73	LAYNE-Filed writ of H/C --writ satisfied Oct.16,1973.MacMahon,J.
Nov.1-73	LASSOFF--Filed defts. financial affdt.
Nov.9-73	LASSOFF--Filed CJA appointment of Roger Hawke Brown,Wood,Fuller,Caldwell & Ivey 1 Liberty Plaza,NYC 10006 Metzner,J.
Nov-14-73	SCHWARTZ- Filed [illegible] motion for the inspection of Grand Jury Minutes, [illegible] - ret. 11-27-73
Nov.20-73	HAGLER--Filed defts. motion for discovery and inspection and bill of particulars ret. on: Dec. 4, 1973.
Nov.20-73	HAGLER--Filed defts. memorandum of law in support of deft's. motion for discovery and inspection and bill of particulars.
Nov.21-73	ZARDUS--Filed defts. affdt. and notice of motion for suppression,etc.,
Nov.21-73	SANTIS--Filed defts. affdt. and notice of motion for discovery,etc., ret. on Dec. 11,1973.
Nov.21-73	ZARDUS--Filed defts. memorandum of law in support of pre trial motion for discovery.
Nov.21-73	ADLMAN--Filed defts. affdt. and notice of motion for an order directing plff. to furnish a bill of particulars,etc. ret. on:Nov.27,1973.
Nov.21-73	WEISMAN--Filed defts. memorandum of law in support of defts.motion for severance.
Nov.21-73	WEISMAN--Filed defts. motion for severance and affdt. ret. on: Nov.27,1973
Nov.21-73	WEISMAN--Filed defts. affdt. and motion for particulars and discovery.ret.: Nov. 27,1973.

DATE	PROCEEDINGS
Nov.23-73	DAN ANFANG--Filed defts. affdt. and notice of motion for an order severing said deft. from the trial,ret. on: Nov. 27, 1973.
Nov.23-73	LASSOFF--Filed defts. affdt. and notice of motion for an order directing the govt. to file and serve a bill of particulars,etc. ret. on: Nov. 27, 1973.
Nov.23-73	LASSOFF--Filed defts. memorandum in support of above motion.
Nov.27-73	ROTH--Filed defts. motion for discovery.
Nov.27-73	ROTH--Filed defts. memorandum in support of motions for discovery and for a bill of particulars and for severance.
Nov.27-73	ROTH--Filed defts. motion for a bill of particulars.
Nov.27-73	ROTH--Filed defts. motion forseverance.
Nov.29-73	ALL DEFTS.--Filed govt's. notice of motion for an order requiring the US Atty. to answer pre trial motions on or before Jan. 16,1974.
Dec.13-73	Filed Govt Motion for Discovery and Inspection and Bill of Particulars
Dec.13-73	Filed Govt. Memorandum of Law
Dec.21-73	Filed Memorandum in support of Deft. Sameul Weisman's motion for Particulars and Discovery and for Severance.
Dec-26-73	T. KOSS- Filed order enlarging defts. bail limits to include travel to and from Las Vegas, Nevada for the period from 12-27-73 through Jan-4-74. -- Metzner, J.
Dec-28-73	LASSOFF- Filed reply memorandum by deft.
Jan- 7-74	HAGLER - Filed order enlarging defts. bail limits to include Antigua from Jan-8-74 to Jan-30-74 m/n
Dec.28-74	ERWINLLAYNE - Filed CJA Appointment Copy 2- approving payment to ~~Robert~~ Edward Panzer (mailed copy 1 of CJA 20 to Adm. Office.
1-22-74	ZARDUS - Filed Financial Affidavit - Metzner, J.
Jan.24-74	THEODORE KOSS-KOSS SECURITIES CORP. Filed Supplemental Affidavit of Morris Weissberg, in support of their motion dtd 10/17/73 for a bill of particulars, for discovery and inspection of documents and grand jury minutes, to dismiss the indictment etc.
Jan.25-74	Filed one sealed envelope. Said envelope contained an affdt. and shall be sealed and delivered to the Clerk of the Court and not opened until further notice and order of the court. So ordered, Metzner J.
Feb.19-74	STEPHEN ADLMAN - Filed Financial Affidavit.
Feb.19-74	IRWIN HYMAN - Order of substitution of counsel to Deyan Ranko Brashich - Metzner, J.
Feb.26-74	STANLEY SCHWARTZ - Filed memo-endorsed on Motion dtd. 11/16/73 -- Motion toInspect Grand Jury Minutes and to Dismiss the Indictment is denied. Motion to Suppress statements is denied: Motion for Severance will be disposed of in a separate memorandum. Motion fo Discovery and Inspection is granted Items 1,2,3,4,5,6,7,8,9, 10,11,12,13,14 and 15 granted. Items 16 and 17 are granted as consented to the government, Items 18 through 24 are granted. Item 25 denied, Item 26 granted Item 27 denied, Motion for Brady Material, is granted to the extent of the government's obligation to comply with 373 U.S.83 The government shall make available any such material as soon as it becomes aware of its existence. So ordered Metzner,J. (m/n)

over

U.S. v. KOSS ET AL. 73 Cr. 903

DATE	PROCEEDINGS
Feb.26-74	MARTIN ROTH--Filed Memo endorsed on motion dtd. 11/27/74 --Motion for a bill of particulars disposed of as follows - Item 1 is denied, Item 2, denied, Item 3 granted Item 4 denied Item 5 is granted as consented by the govt., Item 6 is denied, Item 7 is granted - So ordered - Metzner,J. (m/n)
Feb.26-74	MARTIN ROTH - Filed memo-endorsed on Motion for Discovery dtd. 11/27/73--Items1,2&3 granted, Item 4 granted, item 5 denied, Item 6 granted Item 7 denied Item 8 denied So ordered - Metzner, (m/n)
Feb.26-74	HAROLD LASSOFF - Filed Memo-endorsed on Notice of Motion dtd 11/23/63--Motion for Bill of Particulars denied in part and granted in part; Motion for Discovery and Inspection granted and denied in part. Motion for a Severance will be disposed of in a separate memorandum. So ordered - Metzner,J. (m/n)
Feb.26-74	ERWIN LAYNE - Filed memo-endorsed on Notice of Motion dtd 11/1/73--The motion for severance will be disposed of in a separate memorandum. Motion to strike as prejudicial a portion of the indictment as surplusage is denied. This deft's. motion to join in the motions of all co-defts. is granted to the extent they are relevant to this deft. So. ordered - METZNER. (m/n)
Feb.26-74	SAMUEL WEISMAN-Filed Memo-endorsed on Notice of Motion dtd 11/2/73 --Motion for a Bill of Particulars Granted in part and denied in part--Motion for Discovery and Inspection granted and denied in part - So ordered - Metzner, J. (m/n)
Feb.26-74	STEPHEN ADLMAN - Filed Memo endorsed on Notice of Motion dtd. 11/21/73 -- Motion for Bill of Particulars denied in part and granted in part; Miscellaneous Motions granted in part and denied in part. Item 21 which requests a severance will be disposed of in a separate memorandum - so ordered - METZNER,J.(m/n)
Feb.26-74	ROBERT SANTIS-Filed Memo-endorsed on Notice of Motion dtd 11/21/73 - Motion for Discovery and Inspection granted in part and denied in part. Motion for Brady Material - The govt. shall apprise the movant of the existance of any such material as soon as it is aware of its existence. Motion for deverance will be disposed in a separate memorandum: Motion to Inspect Grand Jury Minutes - denied: Motion to discover Grand Jury witness denied: Motion for Discovery of Trial Witness granted: Motion to Discover all promises to Witnesses is granted on consent: Discovery of Criminal Records is denied Discovery of Exhibits before the Grand Jury is granted as consented to by the government. Motion to Discover Electronic Surveillance is denied; Motion for Bill of Particulars denied in part and granted in part - So ordered Metzner, J. (m/n)
Feb.26-74	STEPHEN ZARDUS - Filed Memo-endorsed on Motiod dtd.11/21/73 -- Motion to Suppress denied; Motion to Discover Electronic Surveillance denied: Motion to Discover Brady Material is granted to the extent that the govt. is aware of its obligation etc.: Motion for Discovery & Inspection is granted: Motion for Bill of Particulars granted in part; and denied in part/ So ordered - Metzner,J.(m/n)
Feb.26-74	STEPHEN HAGLER-Filed Memo-endorsed on Motion dtd 11/29/73 -- Motion for Discovery granted in part and denied in part. Motion for Bill of Particulars Denied in part and granted in part - So ordered - Metzner, J. (m/n)
4-15-74	Filed Affidavit for Writ of Habeas Corpus Ad Prosequendum Deft. Martin I. Roth.

U.S.A. V. KOSS ET AL. 73 Cr. 903

DATE	PROCEEDINGS
b.26-74	THEODORE KOSS -- Filed memo endorsed on Motion dtd 10/18/73 -- Motion for Bill of Particulars denied in part - granted in part; Motion for Discovery-Denied: Motion to Inspect Exculpatory Evidence - The govt. shall apprise the movants of the existence of such material as soon as it is aware of it. Motion for Severance will be disposed of in a separate memorandum. Motion to inspect Grand Jury Minutes denied/ - So ordered Metzner, J. (m/n)
ar-7-74	Filed Governments supplemental Bill of Particulars (all defts)
ar.12-74	Filed Government's Memorandum of Law in opposition to Koss Defts' Supplemental Affdvt.
ar.12-74	Filed OPINION #4044S - The Motions by Eleven Defts. for Severance is Denied, for reasons indicated, without prejudice to renewal if the proceedings at trial justify such action. The defts. Anfang and Schwartz have also moved for a severance on the ground that a lengthy joint trial will cause them severe financial hardship possibly resulting in the loss of their employment. This is not a sufficient basis for severance. Defts. Adlman, Schwartz and Santis have each moved for a severance on the ground that it will be necessary for them to call various co-defendants to testify in their behalf. Motions are denied without prejudice for renewal. Motion of Deft. Santis for a severance on the additional grounds is also denied. Deft. Roth asks for a severance on the ground that he may elect not to testify at trial. The jury will be instructed as it always is that guilt is personal and that no inference is to be drawn from deft's failure to take the stand. Motions of Roth and Koss in re: prejudiced; Denied. Motion of Deft. Koss in re: statements of co-defendants; denied. Deft. Weisman's motion for severance on medical grounds: The government concurs in the court's expressed views that the deft. shall be examined by a physician appointed by the court, and a separate order will be entered to that effect. Deft. Koss has moved for a severance of the perjury counts twelve and thirteen. The motion to sever counts twelve and thirteen is granted. So ordered-METZNER, J.
ar.12-74	Deft. Roth Filed/memo-endorsed on a Notice of Motion dtd 11/27/73 -- This motion is disposed of in accordance with the opinion filed today in the Companion motion. So ordered. METZNER, J. (m/n)
Mar.12-74	Filed for Shargel - Anfang, Memo-endorsed on Notice of Motion dtd. 11/23/73— This motion is disposed of in accordance with the opinion filed today in the companion motion. So ordered - METZNER,J.(m/n)
Mar.20-74	Filed one envelope sealed by order of the court and shall not be opened until further order of this court(envelope containe govt. affdt.).So ordered,Metzner,J.
Mar-20-74	STEPHAN ZARDUS - Filed consent to substitute Attorney Irwin Rochman, 230 Park Av., N.Y. - Metzner.J.
Mar-22-74	THEODORE KOSS & KOSS SECURITIES CORP, - Filed ORDER - authorizing Morris Weissberg to take from file the exhibits described "EXHIBITS ANNEXED TO SUPPLEMENTAL AFFIDAVIT and to deliver original exhibits to U.S.Atty.S.D.N.Y. - Metzner.J.
Mar-25-74	DAN ANFANG (with his atty.) withdraws his plea of Not Guilty and PLEADS GUILTY to Count 3. Plea accepted. Pre-sentence report ordered. Sentence May 6, 1974 Bail continued - METZNER, J.
Mar-26-74	IRWIN HYMAN (with his atty. present) withdraws his plea of not guilty and PLEADS GUILTY to Count 1. Plea accepted. Pre-sentence report ordered. Sentence May 6, 1974. Bail continued - METZNER.J.

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DATE	PROCEEDINGS
-26-74	STEVEN ADLMAN (with his atty. present) withdraws his plea of not guilty and pleads GUILTY to count 1. Plea accepted. Presentence report ordered. Sentence May 6, 1974. Bail continued - METZNER,J.
-27-74	HERBERT SHULMAN (with his atty. present)withdraws his plea of not guilty and pleads GUILTY to count 3. Plea Accepted. Presentence report ordered. Sentence May 6, 1974 Bail continued. - METZNER,J.
-27-74	STEPHEN ZARDUS (with his atty. present) Withdraws his plea of not guilty and pleads GUILTY to count 4. Plea accepted. Presentence report ordered, Sentence May 6, 1974 Bail continued. Bail to include Florida and the Southern District of New York-METZNER J
-28-74	SAMUEL WEISMAN - Filed CJA 21 Authorization of Alvin S. Teirstein,M.D. 70 E.90th St. N.Y.10028 - Metzner, J. (original mailed to A.O. Wash.D.C.)
-28-74	SAMUEL WEISMAN - Filed CJA 21 approving payment on above. - Metzner,J.
3-28-74	THEODORE KOSS - Filed Affdavit insupport of application to appoint Morris Weissberg atty.
3-28-74	THEODORE KOSS & KOSS SECURITIES CORP. Filed Affidavit in support of application for appointment of counsel for defts.
3-29-74	THEODORE KOSS & KOSS SECURITIES - Filed CJA Appointment of Morris Weissberg, 15 Park Row, N.Y - Metzner, J.
3-29-74	Filed Government Order and Affidavit for an order that Counts 12 & 13 of the Indictment in the above matter be tried separately from Cts. 1 thru 11, and this Court having granted such motion by Order dtd 3/12/74 and the Govt. having moved for reconsideration with respect to Ct.13 of the Indictment herein, and this Court have reconsidered the matter , and defts. not having objected. It is hereby ordered that the motion for a trial of Ct.13 of the Ind. herein separate from Cts. 1 thru 11 is denied. METZNER,J.
3-29-74	Filed Govt. ORDER that Deft. Samuel Weisman having moved for severance in matter, and this Court having granted such motion w/o opposition by Govt. and Govt. moved for severance of Deft. Harold Lassoff and joint trial of defts Lassoff & Weisman, it is ORDERED The Govt's motion for severance of Deft. Lassoff and a joint trial of defts is granted - METZNER,J.
4-2-74	Filed Government - Third Supplemental Bill of Particulars.
pr.5-74	Filed deft. MARTIN ROTH request to charge.
Apr.5-74	Filed pltfs. 4th supplemental bill of particulars.
4-2-74	STANLEY SCHWARTZ (atty. present) withdraws his plea of not guilty and pleads GUILTY to Count 2. Plea accepted. Presentence report ordered. Sentence May 6, 1974 - Bail continued - METZNER, J.
4-10-74	IRA LEE SORKIN - Filed Affidavit for Writ of Habeas Corpus Ad Prosequendum

U.S.A. V. KOSS [redacted] 73 Cr. 903 METZNER,J.

DATE	PROCEEDINGS
4-17-74	Filed the enclosed affidavit was submitted by the government pursuant to the court's direction that it explain why it would not divulge the names of witnesses. The court has read the affidavit and finds it sufficient to support the government's position, This affidavit shall be sealed and delivered to the Clerk of the court and not opened until further order of the court. So ordered. METZNER, J.
4-17-74	Filed Government Affidavit for the purpose of clarifying Count 13 of Ind. for defts. Theodore Koss & Koss Securities Corp.
4-17-74	Filed Govt. Second Supplemental Bill of Particulars.
4-15-74	ROBERT PHILIP SANTIS indicted as ROBERT SANTIS - Withdraws plea of not guilty and PLEADS GUILTY (atty. present) to count 2 only. Presentence investigation ordered. Sentence adjd. to May 6, 1974 and to be referred to Judge Metzner. Bail continued ($20,000 P.R.B.) WEINFELD, J.
4-16-74	ROBERT KOLBERT with his(atty. present) withdraws his plea of not guilty and PLEADS GUILTY to count 1 only. Plea accepted. Presentence report ordered Sentence May 6, 1974. Bail continued - METZNER, J,
4-17-74	MARTIN ROTH (atty present)withdraws his plea of not guilty and PLEADS GUILTY to Count 3 only. Plea accepted. Sentence 5/6/74. The defendant was produces in Court on a Writ of Habeas Corpus ad Prosequendum. Writ adjourned to 5/6/74 METZNER,J.
4-17-74	Jury emplaned and sworn. Trial begun as to Theodore Koss-Koss Securities-Erwin Layne William McGee-Stephen Hagler and severed as to Samuel Weisman and Harold Lasoff. Deft. Erwin Layne produced in Court on a Writ of H.C.ad Prosequendum-Metzner,J.
4-18-74	Trial Continued.
4-25-74	Filed CJA 21 - (WILLIAM McGEE) Authorizing Transcript (original mailed to AO Wash.DC) Metzner,J.
4-25-74	ERWIN LAYNE - Filed CJA 21 Approving payment of Authorization of Transcript - Metzner,J.
4-19-74	Trial continued - Juror #11 is replaced by Alt. Joror #1 - METZNER,J.
4-22-74	Trial continued - METZNER,J.
4-23-74	Trial continued - Juror #5 is replaced by Alt. Joror #2 - METZNER,J.
4-24-74	Trial continued - METZNER,J.
4-25-74	Trial continued - METZNER,J.
4-26-74	Trial continued - METZNER,J.
4-29-74	Trial continued - METZNER,J.
5-6-74	Trial continued. The court directs that alternate Juror Howard Perry is excused from any further Jury service - METZNER,J.
5-7-74	Govt. rests. The Govt. consents to strike the following from the means of conspiracy as to Koss and Koss Security 21(a), 21(H) 21(J) 21(L) 21(N). Defts. Koss and

Continued on next page

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DATE	PROCEEDINGS
	Koss Securities move to dismiss counts 6, 7, 9 and 10 - Granted. all other motions are denied. METZNER,J.
5-13-74	STANLEY SCHWARTZ - Filed JUDGMENT (atty present) It is adjudged that the imposition of sentence is suspended and the defendant is placed on probation for a period of TWO(2)YEARS, subject to the standing probation order of this Court. The defendant is fined the sum of $1,500.00 to be paid within SIX(6)MONTHS from the date of this order or the defendant is to be committed until the fine is paid or he is otherwise discharged according to law. Counts (1)(2)(8)(9)(10) and(11) are dismissed on motion of the defendant's counsel with the consent of the Government - METZNER, J. (copies issued) (see entry on 5-30-74) Fine Paid, Exhibit
5-13-74	DAN ANFANG - Filed JUDGMENT(atty present) It is adjudged that the imposition of sentence is suspended and the defendant is placed on probation for a period of THREE(3)YEARS subject to the standing probation order of this court. Counts (1)(8)(9)(10)and (11) are dismissed on motion of defendant's counsel with the consent of the Government METZNER,J. (copies issued) (see entry on 5-30-74)
5-13-74	HERBERT SHULMAN - Filed JUDGMENT (atty present) It is adjudged the imposition of sentance is suspended and the defendant is placed on probation for a period of TWO(2)YEARS subject to the standing probation order of this Court. The defendant is fined the sum of $1,500.00 to be paid within SIX (6) MONTHS from the date of this order or the defendant is to be committed until the fine is paid or he is otherwise discharged accoriding to law. Counts (1)(5)(6)(7)(8((9)(10)and (11) are dismissed on motion of defendant's counsel with the consent of the Government. METZNER,J. (copies issued)
5-7-74	Govt. rests. The Government consents to strike the following from the means of conspiracy as to Koss and Koss Securities. 21(a). 21(h). 21(j). 21(L). 21(n). Defendants Koss and Koss Securities move to dismiss counts 6,7,9 and 10 granted all other motions are denied. Counts #5,6,7,8,9,10 dismissed as to defts MC GEE AND HAGLER Counts 6,7,9,10 dismissed as to LAYNE
-8-74	Trial continued
-9-74	Trial continued
-10-74	Trial continued and concluded Jury verdict 3:15 P.M. Deft. Koss GUILTY on counts 1,2,3,4,5,8,11 and 13. All motions to be submitted on paper. Presentencr report ordered. Sentence June 14, 1974. Bail continued. Jury Polled. Deft. KOSS SECURITIES CORP. GUILTY on counts 1,2,3,4,5,8, and 11. All motions to be submitted on papers. Presentence report ordered. Sentence June 14, 1974. Bail continued. Jury Polled. Deft. WILLIAM McGEE GUILTY on counts 1,3, and 11. All motions to be submitted on papers. Presentence report ordered. Sentence June 14, 1974. Bail continued. Deft. IRWIN LAYNE GUILTY on counts 1,3,5,8 and 11. All motions to be submitted on papers. Presentence report ordered. Sentence June 14, 1974. Writ satisfied
-10-74	Deft. STEPHEN HAGLER NOT GUILTY on counts 1,3, and 11. Deft. moves to be exonerated from bail, motion granted. - METZNER,J.
-16-74	Filed Transcript of record of proceedings dtd 4/2/74
-14-74	Filed LAYNE-Writ of Habeas Corpus Ad Prosequendum w/Marsha l return — Writ Satisfied

(next page)

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DATE	PROCEEDINGS
ay 22-74	Filed CJA 20 Appointment of Julius Wasserstein Esq., 26 Court St.,Bklyn,N.Y. (original mailed AO Wash.D.C.)
ay 22-74	ROBERT SANTIS - Filed JUDGMENT (atty.present) It is adjudged that the imposition of sentence is suspended and the defendant is fined the sum of $3,000.00 and placed on probation for a period of TWO(2)YEARS subject to the standing probation order of this Court. Condition of probation being that the defendant pay the fine within his period of probation or the defendant is to stand committed until the fine is paid or he is otherwise discharged according to law. Counts 1,3,5,thru 11, are dismissed on motion of the defendant's counsel with the consent of the Government _ METZNER,J. (copies issued)
29-74	ADLMAN, Steven - FILED JUDGMENT (atty. present) It is adjudged that the imposition of sentence is suspended and the defendant is placed onprobation for a period of THREE (3) YEARS subject to the standing probation order of this Court Counts (3)(5)thru(11) are dismissed on motion of deft's counsel with the consent of the Government - METZNER,J. (copies issued)
29-74	MARTIN ROTH - produced in Court on a writ, with atty for sentencing. Filed JUDGMENT (atty.present) It is adjudged that the imposition of sentence is suspended and the defendant is placed on probation for a period of THREE(3)YEARS to commence upon completion of the sentence imposed on 3/9/73 by JUDGE GAGLIARDI in Indictment 72 Cr.485. Counts (1)(5)thru(11) are dismissed on motion of defendant's counsel with the consent of the Government. Writ Satisfied. METZNER,J. (copies issued)
30-74	ROBERT KOLBERT - Filed JUDGMENT(atty present) It is adjudged that the imposition of sentence is suspended and the defendant is placed on probation for a period of THREE(3)YEARS subject to the standing probation order of this Court on Count 1. Special condition of probation, (1) that the defendant enter and remain 8in a psychiatric program to be selected by the Probation Department and (2) that the defendant obtain gainful employment within ONE(1)MONTH from the date of this order. Counts (3)(5)thru (11) are dismissed on motion of the defendant's counsel with the consent of the Government(METZNER,J. (copies issued)
5-30-74	Defts. STANLEY SCHWARTZ and DAN ANFANG - Let the record show that all counts (5) thru (11) are dismissed - METZNER,J.
n 5-74	Filed one sealed enveloped containing a transcript of May 30,1974. This envelope shall be sealed and delivered to the Clerk of the Court and not opened until further order of the court. So ordered,Metzner,J. (Copies)
6-6-74	HYMAN - Filed JUDGMENT(atty.present)It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO(2)YEARS on count (1) pursuant to Section 3651 of Title 18, United States Code, as amended with provisions that the deft, be confined in a JAIL TYPE INSTITUTION for a period of THREE (3)MONTHS As the provided in the aforesaid said section. The execution of the remainder of the prison sentence is suspended and the defendant is placed on probation for a period of TWO(2)YEARS subject to the standing probation order of this Court. The defendant is to surrender on June 13, 1974 at 10AM in the United States Marshal's office. Bail is continued pending surrender. Counts (3) and (5) thru (11) are dismissed on motion of the Defendant's counsel with the consent of the

USA v Koss

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DATE	PROCEEDINGS
6-7-74	THEODORE KOSS & KOSS SECURITIES CORP. - Filed Motion for New Trial and Memorandum in support of Motion for a New trial Rule 33 F.R.C.P.
6-12-74	MARTIN ROTH - The enclosed transcript of proceedings dated 5/29/74 is sealed and is to be delivered to the Clerk of the Court and not opened until further order of the Court So ordered - METZNER, J.
6-12-74	ADLMAN - The enclosed transcript of proceedings dated 5/29/74 is sealed and is to be delivered to the Clerk of the Court and not opened until further order of the Court So ordered - METZNER,J.
6-10-74	WEISMAN & LASSOFF - Filed Order to Show Cause, returnable June 10 at 10A.M. why an Order should not be entered herein severing the trial of deft. - Metzner, J.
6-10-74	Filed Memo-endorsed re:above Order - Motion granted to the extent of adjourning the trial to October 7, 1974 - So ordered - METZNER, J.(m/n)
6-13-74	IRWIN HYMAN - Filed Notice of Appeal re: Judgment and sentence imposed on 6/6/74 to U.S.C.A. Second Circuit/
6-14-74	WILLIAM P. McGEE - Filed Personal Recognizance Bond w/o security sum of $15,000.00
6-14-74	THEODORE KOSS - Filed Unsecured Personal Recognizance Bond Pending appeal sum of $25,000.
6-17-74	Filed Notice of Motion for Deft. Layne for an order seeking relief as indicated
6-17-74	Filed Govt's Memorandum of Law in opposition to the Motion of Deft. Theodore Koss for a New Trial.
6-17-74	Filed Medical Report from Meyer Texon re: Samuel Weisman
6-19-74	Filed [illegible] Indictment, Deft. delivered to Warden Fed. Det. Hosp. 6-13-74
6-18-74	Filed Writ of Habeas Corpus Prosequendum - Writ Satisfied - 6/14/74 - Metzner,J.
6-14-74	WILLIAM McGEE - Filed JUDGMENT (atty present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of THREE (3) MONTHS on count One(1). Imposition of sentence on counts (3) and (11) are suspended and the defendant is placed on probation for a period of TWO(2) YEARS to commence upon expiration of sentence on Count I and subject to the standing probation order of this Court. It is adjudged that the defendant is continued on present bail and to post new bail pending appeal - METZNER, J. (copies issued)
6-14-74	THEODORE KOSS - (atty. present) Filed JUDGMENT It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One(1) Year on Count 1. Imposition of sentence is suspended on the remaining counts and the defendant is placed on probation for a period of Three(3) Years to commence upon expiration of sentence on count One and subject to the standing probation order of this Court. The defendant is continued on present bail and to post new bail pending appeal - METZNER,J. (Copies issued)
6-14-74	KOSS SECURITIES CORP, - Filed JUDGMENT (atty present) It is adjudged that the defendant is fined the sum of $1,500.00 on count One. The fine is to be paid within Thirty (30) days from the date of this order. Imposition of sentence is suspended on the remaining counts METZNER,J.(copies issued)

U.S.A v. KOSS ET AL. 73 Cr. 903 METZNER,J.

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DATE	PROCEEDINGS
	P. 1. 3 4
6-14-74	STEPHAN ZARDUS - Filed JUDGMENT(atty Present) It is adjudged that the imposition of sentence is suspended and the defendant is placed on probation for a period of (2) Years on count 4 and a fine of $1,000.00. The fine is to be paid within (3) months from the date of this order. Probation is subject to the standing probation order of this Court. Counts (1)(2)(3)(5) thru (11) are dismissed on motion of defendant's counsel with the consent of the Government. Metzner,J. (copies issued)
6-14-74	ERWIN LAYNE - Filed JUDGMENT(atty present)It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE YEAR on count (1) to commence on Dec.1,1974. Imposition of sentence on the remaining counts is suspended and the defendant is placed on probation for a period of THREE YEARS subject to the standing probation order of this Court to followicompletion of the sentence imposed by Judge L. W. Pierce in 72 Cr. 459 on 6/28/73 here in the Southern District of New York Writ satisfied - METZNER,J. (copies issued)
6-18-74	IRWIN HYMAN - Filed memo endorsed on deft's letter dtd 6/7/74 -- I will treat the attached letter as a motion for reduction of sentence. I have reviewed the file in the case and find that the motion must be denied - So ordered-Metzner,J. (m/n Pro se)
6-18-74	Filed Transcript of record of proceedings, dated April 7, 18, 22, 23, 24, 1974
6-18-74	Filed Transcript of record of proceedings, dated May 6, 7, 8, 9, 10, 1974
6-18-74	Filed Transcript of record of proceedings, dated April 25, 26, 29, 30, 1974
6-19-74	ERWIN LAYNE - Filed CJA 21 Authorization of Transcript S.D.C.R., - METZNER,J.
6-19-74	WILLIAM McGEE - Filed CJA 21 Authorization of Transcript S.D.C.R., METZNER,J.
6-25-74	IRWIN LAYNE - Filed Notice of Appeal - appealing from the Judgment of conviciton on 6/14/74
6-24-74	THEODORE KOSS & KOSS SECURITIES CORP. ET AL. - Filed Notice of Appeal from the final Judgment entered on 6/14/74
6-24-74	Filed Memo and Order -- The application to proceed on appeal in formampauperis is denied on the basis that the deft's financial condition does not justify such relief. So ordered - METZNER,J.
6-24-74	WILLIAM McGEE - Filed Notice of Appeals from final judgment imposed on 6/14/74
6-24-74	Filed Certified Copy of Docket Entries, Deft delivered to Vince Clarke, Case 6-24-74
7-2-74	Filed Transcript of record of proceedings, dated March 26, 1974
7-2-74	Filed Transcript of record of proceedings, dated April 16, 1974
7-2-74	Filed Transcript of record of proceedings, dated June 14, 1974
7-2-74	Filed Transcript of record of proceedings, dated June 17, 1974
7-2-74	Filed Transcript of record of proceedings, dated June 18, 1974

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DATE	PROCEEDINGS
7- 8-74	Filed notice that the record on appeal has been certified and transmitted to the USCA on 7-8-74
7-22-74	KOSS - Filed Designation of Exhibits.
7-18-74	KOSS - Filed Designation of Parts of Record proposed for inclusion in Appendix
8-18-74	IRWIN HYMAN - Filed Memo-endorsed on letter dtd 6/25/74 - The court has carefully reviewed the redord and the opinion - sentence imposed was a proper one - Motion denied - METZNER,J.
7-1-74	IRWIN LAYNE - Filed CJA 21 - ABProving payment of transcript from S.D.C.R. N.Y/
7-19-74	McGEE - Filed C.J.A. 21 approving payment of Transcript
7-24-74	Stephen Zardus-Filed Transcript of record of proceedings, dated 5-27-74
7-24-74	IRWIN LAYNE- Filed C.J.A. copy #2 - original copy appointing Edward S. Rauch as counsel mailed to A.O., Wash., D.C. for payment.
7-24-74	William Koss- Filed C.J.A. copy #2 - original copy appointing Robert Mitchell as counsel mailed to A.O., Wash., D.C. for payment.
8-22-74	Filed true copy from U.S.C.A. an order entered on 6/28/74 directing appellant Irwin Hyman shall file his brief and appendix to the brief on or before 8/14/74 in default of which the Clerk shall enter an order dismissing the appeal. And said brief and appendix not have been filed - ordered that the appeal of Irwin Hyman from the judgment of U.S.C.A. be dismissed - Clerk
9-16-74	Filed CJA 20 for STEPHAN ZARDUS, appointing Irwin Rochman counsel. Original mailed to AO Wash.D.C. for payment - METZNER,J.
9-16-74	Filed Copy of CJA 20 approving payment for counsel re:above.
11-14-74	Filed Deft. Harold Lassoff's proposed Voir Dire to the Jury
11-14-74	Filed Deft. Harold Lassoff's Request to Charge
11-18-74	Filed Deft.Samuel Weisman - Proposed examination on the Voir Dire
11-18-74	Filed Govt's Proposed examination of prospective Jurors.
11-22-74	Filed Transcript of record of proceedings, dated 2-7-74
11-25-74	Filed Transcript of record of proceedings, dated
11-27-74	Weisman's - Filed deft. request to charge.
11-18-74	Jury impaneled and sworn, trial begun as to SAMUEL WEISMAN & HAROLD LASOFF.- METZNER,J.
11-19-74	Trial continued- METZNER,J.
11-20-74	Trial continued
11-21-74	Trial continued

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D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS
Nov.22-74	Trial continued
Nov.25-74	Trial continued, Motion to dismiss Count 6 as to defendant LASOFF, GRANTED. METZNER,J
Nov.26-74	Trial continued
Nov.27-74	Trial continued and concluded, verdict. The defendant WEISMAN found GUILTY on counts (1) Three(3) Six(6) and Seven(7) Juror polled. Pre-sentence report ordered. Sentence Jan. 7, 1974. Bail continued
Nov.27-74	The defendant LASOFF found not guilty on Counts One(1) Three(3) and Seven(7) the defendant to move for order of exoneration from bail. METZNER,J.
12-11-74	SHULMAN - Filed Probation form - to amend the judgment and order of probation to permit the probationer to pay the $1,500. fine during the remainder of his probation period. - METZNER,J.
Dec18-74	Filed Transcript of record of proceedings, dated Nov 26,26,27, 1974
Dec18-74	Filed Transcript of record of proceedings, dated Nov 18,19,20,21,22, 1974
01-07-75	WEISMAN---Filed defts. memorandum of law in support of motion for a new trial and for judgmnet of acquitcal on 3rd count of the indictment.
01-07-75	WEISMAN --Filed defts. affdt. and notice of motion for an new trial and for acquittal,ret. on: Jan.7,1975 at 10am.
01-07-75	SAMUEL WEISMAN ---Filed JUDGMENT 75083 (atty.Milton Gould present) ORDERED that the deft. pay a fine of $5,000 to cover each of counts 1, 3, 6 and 7. The total sum of the fine being $5,000 (non-committed) to be paid with (30) days from the date of this order. The defendant is continued R.O.R. pending appeal. Metzner,J.(copies issued) AS TO DEFT. SAMUEL WEISMAN
01-13-75	SAMUEL WEISMAN--Filed defts.notice of appeal to the USCA from the final judgment entered on January 7,1975.(copies mailed to U.S.Atty's. office and Samuel weisman at 200Winston Dr.,Cliffside Park,NJ 07010)
01-02-75	Filed mandate from the USCA with true copy of order--Ordered that the judgments of the district court are affirmed. Clerk. judgment entered,Clerk m/n (as to defts.Theodore Koss, Koss Securities, Erwin Layne, Wm. McGee)
01-20-75	FILED AMENDED JUDGMENT(CORRECTED JUDGMENT)--ordered that the deft. pay a fine of $5,000 to cover each of counts 1 and 3. The total sum ofthe fine being $5,000(non-committed) to be paid within 30 days from the date of this order. The deft. is continued ROR pending appeal. Metzner,J.(copies Issued) (AS TO DEFT. SAMUEL WEISMAN.)

DATE	PROCEEDINGS	Date Judgm
01-20-75	SAMUEL WEISMAN--on this date, this court corrects its judgment of Jan.7,1975 to eliminate counts 6 and 7 as to the deft. who was found NOT GUILTY on these 2 charges.Metzner,J.	
01-20-75	SAMUEL WEISMAN---Filed defts. designation of exhibits to be sent to the US Court of appeals.	
01-27-75	SAMUEL WEISMAN--Filed order--ORDERED that enforcement of the sentence of this court, as reflected in the final judgment entere d in this action on the 7th day of January, 1975,which imposed a fine of $5,000 be and the same hereby is stayed until 10 days following the disposition of defts. appeal from said jdugment to the USCA for the 2nd circuit. Bonsal,J.(apart I) m/n	
1-24-75	TH EODORE KOSS--Filed order--ORDERED that Theodore Koss surrender scheduled for Friday, Jan.24,1975,to commence service of the sentence imposed in the above captioned case is hereby adj. until the the U.S. Supreme Court decides his petition for certiorari,so ordered, Metzner,J. m/n	
01-30-75	SAMUEL WEISMAN--Filed notice that the original record on appeal has been certified and transmitted to theuSCA this date.	

INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

- v - :

THEODORE KOSS,
KOSS SECURITIES CORPORATION,
STEPHEN ZARDUS,
ROBERT SANTIS, - 5-22-74
HERBERT SHULMAN, - 5-3-74
STEVEN ADLMAN, - 5-24-74
ROBERT KOLBERT, - 5-30-74
STANLEY SCHWARTZ, - 5-13-74
SAMUEL WEISMAN,
HAROLD LASSOFF,
MARTIN ROTH, - 5-24-74
ERWIN LAYNE,
IRWIN HYMAN, - 5-24-74
WILLIAM McGEE,
STEPHEN HAGLER and NG
DAN ANFANG, - 5-13-74

Defendants. :

INDICTMENT

73 Cr.

73 CRIM. 903

U.S. DISTRICT COURT
FILED
SEP 25 1973
S.D. OF N.Y.

MICROFILM
SEP 25 1973

COUNT ONE

The Grand Jury charges:

1. From on or about the first day of November, 1970 and continuously thereafter, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, THEODORE KOSS, KOSS SECURITIES CORPORATION, STEPHEN ZARDUS, ROBERT SANTIS, HERBERT SHULMAN, STEVEN ADLMAN, ROBERT KOLBERT, STANLEY SCHWARTZ, SAMUEL WEISMAN, HAROLD LASSOFF, MARTIN ROTH, ERWIN LAYNE, IRWIN HYMAN, WILLIAM McGEE, STEPHEN HAGLER and DAN ANFANG, the defendants herein, and Automated Information Systems, Inc., Michael Hellerman, Murray Taylor, Murray Levine, Robert Angona, Interstate Equity Corporation and Atlantic Securities, named herein as co-conspirators but not as defendants, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with each other and with other persons known and unknown to the Grand Jury to commit certain offenses against the United States of America, to wit, violations of Title 15, United States Code, Sections 77q(a), 77(x), 78j(b) and 78ff and Rule 10b-5 (17 C.F.R.

240.10b-5) of the rules and regulations promulgated by the United States Securities and Exchange Commission ("Commission") under the Securities Exchange Act of 1934 ("Exchange Act"); and Title 18, United States Code, Section 1341.

THE DEFENDANTS

2. The defendant THEODORE KOSS was, at all times material to this Indictment, a principal of the broker-dealer firm of defendant KOSS SECURITIES CORPORATION.

3. The defendant KOSS SECURITIES CORPORATION was, at all times material to this Indictment, a broker-dealer in securities duly registered with the Commission, located at 1416 Avenue M, Brooklyn, New York.

4. The defendant STEPHEN ZARDUS was, at all times material to this Indictment, the principal of the registered broker-dealer firm Interstate Equity Corporation, named herein as co-conspirator.

5. The defendant ROBERT SANTIS was, at all times material to this Indictment, the president of co-conspirator Automated Information Systems, Inc.

6. The defendant HERBERT SHULMAN was, at all times material to this Indictment, a trader in securities at the registered broker-dealer firm of Dopler, Gray & Co., Inc.

7. The defendant STEVEN ADLMAN was, at all times material to this Indictment, a self-employed promoter and finder.

8. The defendant ROBERT KOLBERT was, at all times material to this Indictment, a registered representative at the registered broker-dealer firm of Ferkauf, Roggen & Co.

9. The defendant STANLEY SCHWARTZ was, at all times material to this Indictment, a principal of the registered broker-dealer firm of Atlantic Securities, named herein as co-conspirator.

10. The defendant SAMUEL WEISMAN was, at all

times material to this Indictment, an attorney admitted to practice in the State of New York.

11. The defendant HAROLD LASSOFF was, at all times material to this Indictment, a registered representative at the registered broker-dealer firm of Pressman, Frolich and Frost, Inc., and serviced the brokerage account of defendant SAMUEL WEISMAN.

12. The defendant MARTIN ROTH was, at all times material to this Indictment, an attorney admitted to practice in the State of New York.

13. The defendant ERWIN LAYNE was, at all times material to this Indictment, a self-employed promoter and finder.

14. The defendant IRWIN HYMAN was, at all times material to this Indictment, an automobile salesman.

15. The defendant WILLIAM McGEE was, at all times material to this Indictment, an employee of the Chelsea National Bank.

16. The defendant STEPHEN HAGLER was, at all times material to this Indictment, a registered representative at the registered broker-dealer firm of Ferkauf Roggen & Co.

17. The defendant DAN ANFANG was, at all times material to this Indictment, a registered representative at the registered broker-dealer firm of Bruns, Nordman & Co.

OBJECTS OF THE CONSPIRACY

18. It was part of said conspiracy that the defendants and co-conspirators unlawfully, wilfully and knowingly, in the offer to sell and sale of securities, to wit, the common stock of co-conspirator Automated Information Systems, Inc., by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, would directly and indirectly, (a) employ devices, schemes and artifices

to defraud; (b) obtain money and property by means of untrue statements of material facts and ommissions to state material facts necessary in order to make the statements made, in light of circumstances under which they were made, not misleading; and (c) engage in transactions, practices and courses of business which operated and would operate as a fraud and deceit upon the purchasers of the aforementioned securities and upon any and all persons to whom the said defendants and co-conspirators, directly and indirectly, would attempt to sell the aforementioned securities.

19. It was further part of said conspiracy that the defendants and co-conspirators, in connection with the purchase and sale of securities, to wit, the common stock of co-conspirator Automated Information Systems, Inc., would and did, directly and indirectly, use means and instrumentalities of interstate commerce and the mails to use and employ manipulative and deceptive devices and contrivances in contravention of Rule 10b-5 (17 C.F.R. 240.10b-5) of the rules and regulations promulgated by the Commission.

20. It was further part of said conspiracy that the defendants and co-conspirators, having devised and intending to devise a scheme and artifice to defraud, and attempting so to do, would place and cause to be placed in post offices and authorized depositories for mail matter, and would cause to be delivered by mail according to the direction thereon, certain matter to be sent and delivered by the Post Office Department.

MEANS OF THE CONSPIRACY

21. Among the means by which the defendants and co-conspirators would and did carry on such conspiracy were the following:

(a) On or about December 1, 1970, defendants THEODORE KOSS and KOSS SECURITIES CORPORATION were engaged in an underwriting of 65,000 shares of common stock of co-conspirator Automated Information Systems, Inc., on an "all or nothing" basis.

(b) In or about December, 1970 and January, 1971, co-conspirators Murray Levine and Michael Hellerman agreed with defendants THEODORE KOSS, KOSS SECURITIES CORPORATION and STEPHEN ZARDUS that co-conspirator Interstate Equity Corporation would become co-underwriter with defendant KOSS SECURITIES CORPORATION.

(c) In or about January and February, 1971, defendants STEPHEN ZARDUS, ROBERT SANTIS and THEODORE KOSS agreed that co-conspirators Murray Taylor and Michael Hellerman would supply defendant STEPHEN ZARDUS with the names of subscribers and the monies to purchase 50,000 shares, of common stock of co-conspirator Automated Information Systems, Inc.

(d) Defendant ROBERT SANTIS and co-conspirator Michael Hellerman agreed that defendant ROBERT SANTIS would pay to co-conspirator Michael Hellerman approximately one half of the proceeds of the underwiriting.

(e) In or about February, 1971 and March, 1971, defendants MARTIN ROTH and ERWIN LAYNE and co-conspirators Michael Hellerman and Murray Taylor and others signed stock powers for several certificates issued in the names of subscribers supplied to defendant STEPHEN ZARDUS by co-conspirator Michael Hellerman.

(f) In or about March and April, 1971, defendants THEODORE KOSS, KOSS SECURITIES CORPORATION, and HERBERT SHULMAN, and others traded the common stock of co-conspirator Automated Information Systems, Inc. in the over-the-counter market, while defendant STEPHEN ZARDUS, and co-conspirators Michael Hellerman and Murray Taylor and Interstate Equity Corporation were selling common stock of Automated Information Systems, Inc. through co-conspirator Interstate Equity Corporation.

(g) In or about March and April, 1971, defendants THEODORE KOSS and KOSS SECURITIES CORPORATION purchased shares of the common stock of Automated Information Systems, Inc. from their customers and placed the shares in the firm account;

LS:mel

said shares were purchased from these customers below the prevailing market price.

(h) In or about May, 1971 defendant STANLEY SCHWARTZ agreed with co-conspirator Murray Taylor to sell common stock of co-conspirator Automated Information Systems, Inc. through co-conspirator Atlantic Securities, Inc. in return for "double" commissions.

(i) In or about April, 1971, defendants HERBERT SHULMAN, STEVEN ADLMAN and ROBERT KOLBERT met and agreed with co-conspirator Michael Hellerman that defendants HERBERT SHULMAN, STEVEN ADLMAN and ROBERT KOLBERT would trade and recommend to brokers and investors that they purchase the common stock of co-conspirator Automated Information Systems, Inc.; defendants HERBERT SHULMAN, STEVEN ADLMAN and ROBERT KOLBERT received cash payments.

(j) In or about May, 1971, defendant SAMUEL WEISMAN and HAROLD LASSOFF met and agreed with co-conspirator Michael Hellerman that defendant SAMUEL WEISMAN would purchase shares of the common stock of co-conspirator Automated Information Systems, Inc. through his registered representative defendant HAROLD LASSOFF.

(k) In or about April, May and June, 1971, defendants MARTIN ROTH and ERWIN LAYNE, and others endorsed checks drawn against the account of co-conspirator Interstate Equity Corporation in the names of persons unknown to them; said checks were then delivered to co-conspirator Michael Hellerman who cashed said checks.

(l) In or about June, 1971, defendant IRWIN HYMAN in exchange for cash payments purchased the common stock of co-conspirator Automated Information Systems, Inc. and recommended the stock to others; said purchases were never paid for by defendant IRWIN HYMAN.

(m) In or about June, 1971, defendants WILLIAM McGEE and STEPHEN HAGLER received cash payments for

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recommending and influencing others to purchase the common stock of co-conspirator Automated Information Systems, Inc.

(n) In or about June, 1971, defendant DAN ANFANG was offered cash payments to recommend the common stock of co-conspirator Automated Information Systems, Inc. to customers.

22. As a result of the manipulative and deceptive devices enumerated in paragraph 21 hereinabove, the over-the-counter market price of the common stock of co-conspirator Automated Information Systems, Inc. rose from $1.00 per share to approximately $5.50 per share.

23. As a result of the manipulative and deceptive devices enumerated in paragraph 21 hereinabove, investors in the common stock of Automated Information Systems, Inc. incurred financial loss.

OVERT ACTS

24. In furtherance of the conspiracy and to effect the objects thereof, the defendants committed the following overt acts, among others, in the Southern District of New York:

(a) In or about January, 1971, ROBERT SANTIS and STEPHEN ZARDUS entered the Plaza Hotel, New York, New York;

(b) On or about February 22, 1971, STEPHEN ZARDUS entered the Pier 52 restaurant in New York, New York;

(c) On or about March 1, 1971, defendant ROBERT SANTIS delivered two cashiers checks payable to "Louis Greenblatt;"

(d) On or about April 7, 1971, defendant STEPHEN ZARDUS and co-conspirator Interstate Equity Corporation purchased approximately 1100 shares of the common stock of co-conspirator Automated Information Systems, Inc. from defendants THEODORE KOSS and KOSS SECURITIES CORPORATION for the account of "Sidonie Horner;"

(e) On or about May 3, 1971, defendant SAMUEL WEISMAN had a conversation;

(f) On or about May 4, 1971, defendant HAROLD LASSOFF had a conversation;

(g) On or about May 11, 1971, MARTIN ROTH endorsed a check payable to "Sidonie Horner";

(h) On or about May 21, 1971, defendant STANLEY SCHWARTZ sold 1000 shares of the common stock of co-conspirator Automated Information Systems, Inc.;

(i) On or about May 25, 1971, defendant STEVEN ADLMAN sold 2000 shares of the common stock of co-conspirator Automated Information Systems, Inc.;

(j) On or about June 4, 1971, defendant ROBERT KOLBERT purchased 400 shares of the common stock of co-conspirator Automated Information Systems, Inc. for the account of "K. Chapin";

(k) On or about June 6, 1971, defendant WILLIAM McGEE received cash;

(l) On or about June 6, 1971, defendant STEPHEN HAGLER received cash;

(m) On or about June 7, 1971, defendant DAN ANFANG had a conversation;

(n) On or about June 11, 1971, defendant IRWIN HYMAN received cash;

(o) On or about June 18, 1971, defendant ERWIN LAYNE had a conversation.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

1. From on or about the first day of November, 1970, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, the defendants THEODORE KOSS, KOSS SECURITIES CORPORATION, STEPHEN ZARDUS, ROBERT SANTIS and STANLEY SCHWARTZ and others, unlawfully, wilfully and knowingly, in the offer and sale of securities, to wit, the common stock of Automated Information Systems, Inc. by the use of the means and instruments of transportation and communication in interstate commerce and by use of the mails,

directly and indirectly, (a) did employ a device, scheme and artifice to defraud; (b) did obtain money and property by means of untrue statements of material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) did engage in transactions, practices and courses of business which would and did operate as a fraud and deceit upon purchasers of said securities and other persons whom the said defendants, directly and indirectly attempted to induce to purchase said securities.

2. The allegations contained in paragraph 21 of Count One of this Indictment are repeated and realleged as though fully set forth herein as constituting and describing the means by which the defendants committed the offense charged in paragraph 1 of this count.

3. On or about the dates hereinafter set forth in Count Two, in the Southern District of New York, the defendants THEODORE KOSS, KOSS SECURITIES CORPORATION, STEPHEN ZARDUS, ROBERT SANTIS and STANLEY SCHWARTZ, unlawfully, wilfully and knowingly did use and cause to be used the means and instruments of transportation and communication in interstate commerce and the mails pursuant to and in furtherance of the scheme alleged in paragraph one of this count as hereinafter set forth:

DATE	ADDRESSEE	MATTER
(a) March 2, 1971	Interstate Equity Corp. 44 Grove St. New York, New York	Check for the purchase of 2000 shares of the common stock of Automated Information Systems, Inc.
(b) May 21, 1971	Atlantic Securities 44 Beaver St. New York, New York	Check for the purchase of 1000 shares of the common stock of Automated Information Systems, Inc.

(Title 15, United States Code, Sections 77q and 77x; and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

1. From on or about the first day of November, 1970, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, the defendants THEODORE KOSS, KOSS SECURITIES CORPORATION, STEPHEN ZARDUS, ROBERT SANTIS, HERBERT SHULMAN, STEVEN ADLMAN, ROBERT KOLBERT, STANLEY SCHWARTZ, SAMUEL WEISMAN, HAROLD LASSOFF, MARTIN ROTH, ERWIN LAYNE, IRWIN HYMAN, WILLIAM McGEE, STEPHEN HAGLER and DAN ANFANG, and others, unlawfully, wilfully and knowingly did, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, use and employ in connection with the purchase and sale of securities, to wit, the common stock of Automated Information Systems, Inc., manipulative and deceptive devices and contrivances in contravention of Rule 10b-5 (17 C.F.R. Section 240.10b-5) of the rules and regulations of the United States Securities and Exchange Commission.

2. The allegations contained in paragraph 21 of Count One of this Indictment are repeated and realleged as though fully set forth herein, as constituting and describing the means by which the defendants committed the offense charged in paragraph 1 of this count.

3. On or about the dates hereinafter set forth in Count Three, in the Southern District of New York, said defendants unlawfully, wilfully and knowingly did use and cause to be used means and instrumentalities of interstate commerce and the mails pursuant to and in furtherance of the scheme alleged in paragraph 1 of this count, by causing orders to purchase the common stock of Automated Information Systems, Inc. to be sent through the mails to the persons hereinafter set forth the matter hereinafter set forth:

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DATE	ADDRESSEE	MATTER
(a) March 18, 1971	J. Lepson	Confirmation of purchase of 500 shares of Automated Information Systems, Inc. common stock.
(b) May 3, 1971	Bernard Weber	Confirmation of purchase of 500 shares of Automated Information Systems, Inc. common stock.
(c) June 7, 1971	M. Falteich	Confirmation of purchase of 1000 shares of Automated Information Systems, Inc. common stock.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Section 2.)

COUNT FOUR

The Grand Jury further charges:

1. From on or about the first day of November, 1970, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, the defendants THEODORE KOSS, KOSS SECURITIES CORPORATION and STEPHEN ZARDUS, and others, unlawfully, willfully and knowingly did, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails effect transactions in, and induce and attempted to induce the purchase and sale of the common stock of Automated Information Systems, Inc., in connection with fraudulent, deceptive and manipulative acts and practices in contravention of Rule 15(c) 2-4 (17 C.F.R. 240.15(c) 2-4) of the rules and regulations of the United States Securities and Exchange Commission.

2. The allegation contained in paragraph 21 of Count One of this Indictment are repeated and realleged as though fully set forth herein, as constituting and describing the means by which the defendants committed the offense charged in paragraph 1 of this count.

3. The defendants, while participating in the distribution of securities, to wit, the common stock of Automated Information Systems, Inc., on an "all-or-none" basis underwriting did unlawfully, wilfully and knowingly fail to promptly deposit the monies received from the underwriting in a separate bank account, as agent and trustee for the persons who had the beneficial interests in said monies and did fail to promptly transmit to a bank which had agreed in writing to hold all such funds in escrow for the persons who had the beneficial interests therein all such monies received from the underwriting.

(Title 15, United States Code, Sections 78o(c)(2) and 78ff; Title 18, United States Code, Section 2.)

COUNTS FIVE THROUGH ELEVEN

The Grand Jury further charges:

1. From on or about the first day of November, 1970, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, the defendants, THEODORE KOSS, KOSS SECURITIES CORPORATION, STEPHEN ZARDUS, ROBERT SANTIS, HERBERT SHULMAN, STEVEN ADLMAN, ROBERT KOLBERT, STANLEY SCHWARTZ, SAMUEL WEISMAN, HAROLD LASSOFF, MARTIN ROTH, ERWIN LAYNE, IRWIN HYMEN, WILLIAM McGEE, STEPHEN HAGLER, and DAN ANFANG, and others, unlawfully, wilfully and knowingly did devise and intend to devise a scheme to defraud purchasers of the common stock of Automated Information Systems, Inc., and to obtain money and property from said persons by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing said scheme and artifice to defraud and attempting so to do, did place and caused to be placed in post offices and authorized depositories for mail matter and did cause to be delivered by mail, according to the directions thereon, certain matter to be sent and delivered by the Post Office Department, as more particularly set forth below.

2. The allegations contained in paragraph 21 of Count 1 of this Indictment are repeated and realleged as though fully set forth herein as constituting and

describing the means by which the defendants committed
the offense charged in Paragraph One of these counts.

3. On or about the dates hereinafter set forth in Counts Five through Eleven in the Southern District of New York and elsewhere, said defendants unlawfully, wilfully and knowingly did cause to be placed in post offices and authorized depositories for mail, and did cause to be delivered by mail by the Post Office Department according to the directions thereon, to the persons hereinafter set forth, the matter hereinafter set forth:

COUNT	DATE	ADDRESSEE	MATTER
5	April 21, 1971	Jackie Mason	Confirmation of purchase of 600 shares of Automated Information Systems, Inc. common stock.
6	May 3, 1971	Samuel Weisman	Confirmation of purchase of 500 shares of Automated Information Systems, Inc. common stock.
7	May 4, 1971	Martin Cohen	Confirmation of purchase of 100 shares of Automated Information Systems, Inc. common stock.
8	June 4, 1971	K. Chapin	Confirmation of purchase of 400 shares of Automated Information Systems, Inc. common stock.
9	June 7, 1971	E. Dann c/o Gino Fashions	Confirmation of purchase of 500 shares of Automated Information Systems, Inc. common stock.
10	June 11, 1971	A. Hyman	Confirmation of purchase of 300 shares of Automated Information Systems, Inc. common stock.
11	June 11, 1971	H. Zankel	Confirmation of purchase of 200 shares of Automated Information Systems, Inc. common stock.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT TWELVE

The Grand Jury further charges:

1. On or about the 15th day of June, 1971, in the Southern District of New York, THEODORE KOSS, the defendant, having duly taken an oath that he would testify truly before a competent tribunal and officer in a case in which a law of the United States authorized an oath to be administered, to wit, an officer of the United States Securities and Exchange Commission, did unlawfully, wilfully and knowingly and contrary to said oath, state material matters which he did not believe to be true.

2. At the time and place aforesaid, the United States Securities and Exchange Commission was conducting an investigation concerning possible violations of the laws of the United States prohibiting, among other things, manipulation of securities, fraud in connection with the offer, purchase and sale of securities and the sale of unregistered securities in connection with transactions in the common stock of Automated Information Systems, Inc.

3. It was material to said inquiry to ascertain the participation of THEODORE KOSS and others in the underwriting and trading in the after market of the common stock of Automated Information Systems, Inc. and whether THEODORE KOSS had transactions in Automated Information Systems, Inc. for his account and the accounts of others.

4. At the time and place aforesaid, THEODORE KOSS, the defendant, appearing as a witness under oath before said officers of the United States Securities

and Exchange Commission, did unlawfully, wilfully and knowingly falsify, conceal, and cover up by trick, scheme and device material facts and did make false, fictitious and fraudulent statements and representations, as follows:

* * * * *

Q. Who is Robert Angona?

A. That is a customer. That is a fellow who wanted to buy stock. He wanted to buy a thousand shares of stock.

Q. Had he been an old-time customer?

A. No, he is a new customer. He came in cold turkey.

Q. Do you know who recommended him?

A. He said Steve Zardus recommended him, and that he knew he could buy some stock from me.

Q. He is the principal of Interstate Equities?

A. Right.

* * * * *

Q. Do you have any indications that there were any irregularities with the selling or buying or underwriting of this stock, not as to yourself, but anywhere else?

A. None whatsoever.

Q. Do you have any information indicating that some person whom you would deem to be unscrupulous is somehow connected with this company or stock?

A. None whatsoever. If I thought there was any misdealings or unscrupulous action, I wouldn't have gone through with this underwriting.

Q. Have you ever heard of Michael Hellerman?

A. Yes.

Q. Have you ever heard of him in connection with the stock?

A. Yes.

Q. How?

A. About a month ago.

Q. You are speaking of the middle of May?

A. About April.

Q. Mid-April?

A. Middle of April, yes. He got Murray Levine to call me.

Q. Murray Levine called you?

A. Introduced me to Michael Hellerman.

Q. Was this on the phone?

A. Yes.

Q. Was Mr. Levine still with your firm?

A. No, he was not.

Q. Mr. Levine called from outside to your firm?

A. Right.

Q. And stated what?

A. "You should meet Mr. Hellerman".

Q. Was Mr. Hellerman on the phone also?

A. Yes.

Q. It was a three-party conversation?

A. Yes.

Q. What did Mr. Hellerman have to say?

A. He had an interest in the stock.

Q. What did he say?

A. He wanted to buy the stock.

Q. Did he say he had any previous interest?

A. I didn't ask him that.

Q. Did he say that he had a position in the stock?

A. He might have said that.

Q. Did you ask him how he got into the stock?

A. He wouldn't tell me.

Q. Do you mean he wanted to buy it, or do you mean that he had a position, or control or an ownership?

A. This I don't know. I know very well of Michael Hellerman. I read his name in the SEC digest.

Q. Do you have an account for Michael Hellerman?

A. No.

Q. Did you buy any of that stock for him?

A. I did not. I would not allow my firm to do any trading with Michael Hellerman.

Q. Did you pass his name along?

A. I did not.

Q. Did you tell Mr. Hellerman in this whole conversation that you wouldn't do so?

A. Absolutely.

* * * * *

Q. Did you ever know whether Mr. Hellerman purchased any shares?

A. I don't know.

Q. Have you learned that subsequently?

A. No.

Q. Have you had any further information concerning Mr. Hellerman?

A As far as I am concerned, I have very little, and I don't want any dealings with the man. I have no dealings with Mr. Hellerman. If anything is brought up to me, I don't want to listen to it.

* * * * *

Q. Mr. Hellerman did not reveal how he became interested?

A. No.

* * * * *

Q. How about Murray Taylor?

A. I have heard that name also bad.

Q. Have you ever heard that name in connection with this stock?

A. I think the two of them must go together. Where or how they are connected in this stock, I don't know.

Q. Who?

A. Taylor and Hellerman.

Q. You know they are connected?

A. In this one I don't know whether they are together, but even if they are, I wouldn't pay no attention. I wouldn't allow myself to deal with people like this.

5. The testimony of the defendant, THEORDORE KOSS, enumerated hereinabove in Count Twelve, as he then and there well knew, was untrue.

(Title 18, United States Code, Section 1001.)

COUNT THIRTEEN

The Grand Jury further charges:

1. On or about June 15, 1971, in the Southern District of New York, the defendant THEODORE KOSS, in a matter within the jurisdiction of the United States Securities and Exchange Commission, did unlawfully, wilfully and knowingly make and use and submit false writings and documents to said United States Securities and Exchange Commission knowing the same to contain false, fictitious and fraudulent statements and entries, to wit, documents reflecting purchases and sales of the common stock of Automated Information Systems, Inc., by and through the brokerage firm of KOSS SECURITIES CORPORATION.

(Title 18, United States Code, Section 1001.)

Albert Sims
FOREMAN

Paul J. Curran
PAUL J. CURRAN
United States Attorney

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RAYMOND F. BURGHARDT, Clerk
By B. Edwards
Deputy Clerk

MR. WALKER: Very well. At the point where the stock could not be sold, at that point the various people turned to a man named Michael Hellerman and Murray Taylor to see if Hellerman and Taylor could sell this stock. Hellerman and Taylor were men who had been involved in prior crimes and, in effect, this group was looking to see if they could sell this stock through illegitimate channels.

Hellerman agreed to do the deal but insisted that one-half of the proceeds of the underwriting be kicked back to him and also that he control the entire offering after the transaction occurred. He did this so that he could then rig the price of the stock.

Hellerman did this and was able to effectively close the underwriting and ended up controlling most of the stock. He did this by the use of nominees and by various devices.

Hellerman then began to run up the price of the stock along with other people and in this connection he came to Mr. Weisman and told Mr. Weisman that he had a stock that he was going to run up to approximately $20 a share and would Sam Weisman, who was a long-time associate of his, like to get in on the deal. Sam Weisman agreed to this and bought stock pursuant to a guaranteed arrangement

with Mr. Hellerman.

When Mr. Weisman executed the trade Mr. Lassoff found out about this deal, and since it seemed like a sure thing for him, he wanted a piece of the action and he asked Mr. Hellerman if Mr. Hellerman would put a customer of his, Martin Cohen, into the stock. Mr. Lassoff did this so that he could get the commissions and I believe he also hoped to get a percentage of the profits eventually from Mr. Hellerman.

Mr. Hellerman was looking to place this stock and he told Mr. Lassoff that he intended to run this stock up to $20 a share before selling it off to the public.

Mr. Lassoff and Mr. Weisman thus knew, the Government contents the proof will show, of the entire nature of the scheme.

Mr. Cohen bought the stock through Mr. Lassoff but was not informed of the full nature of the scheme. Mr. Cohen purchased 3,000 shares in early May.

So at this point we have Weisman and Cohen both owning stock in Automated Information Systems, both buying 3,000 shares.

Then the transaction, the overall scheme, ran into some difficulty because an agent of Mr. Hellerman's sought to place a phony order through the firm that Mr.

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Lassoff works for, Pressman, Frohlich & Frost, that he worked for at that time, and Mr. Frohlich found out that Mr. Hellerman was involved in the trading in Automated Information Systems. It may be that Mr. Lassoff let that slip in a conversation --

MR. GOULD: I am going to object to this.

THE COURT: Sustained. Go ahead.

MR. WALKER: Mr. Frohlich then called up the various investors, both Cohen and Weisman, to tell them what he knew about Hellerman, and he had known that Mr. Hellerman had been involved in a prior stock swindle and in fact had been indicted for stock fraud, and he called up Mr. Weisman, he called up Mr. Cohen to explain that he wasn't recommending this purchase, Mr. Frohlich said, and that they were free to get out of the stock if they wanted to.

Mr. Weisman refused to get out of the stock. He said he wasn't getting out. Mr. Cohen became very nervous after hearing from Mr. Frohlich.

At that point this group of people had two major problems to worry about. One, Mr. Frohlich might report the fact that Hellerman was involved in Automated Information Systems to the SEC, and thus bring down the scheme, or, secondly, Mr. Cohen might sell his stock into the market, and this would have the effect of depressing

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the market and make it impossible for the scheme to effectively work.

During the second week in May of 1971 the group of people involved, Mr. Weisman, Mr. Lassoff, Mr. Hellerman, Mr. Taylor, and others, were in communication and aware of the problems which had arisen. Mr. Hellerman ultimately called a meeting at his house to bring together this group of people so they could decide what to do to keep the scheme alive.

On May 16, 1971 there was a meeting at Mr. Hellerman's house. Mr. Weisman was there and Mr. Lassoff was there and others in the conspiracy were there. At that time there was some discussion about possibly paying off Mr. Frohlich to keep quiet and not go to the SEC, but the primary decision that was reached was to get Mr. Cohen to keep from selling his stock, and Mr. Weisman and Mr. Lassoff together went over to Mr. Cohen's house and they did not tell him of the transactions that had gone on in the stock, the fact that the stock was being manipulated and rigged, instead they told him that it was a great investment and a good company and he should just hold onto the stock, and they persuaded him to hold onto the stock in order to keep the scheme alive.

Now, ultimately Mr. Frohlich did report to the

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SEC the fact of his suspicions concerning Automated Information Trading, the fact Mr. Hellerman was involved, and thus, fortunately for the public, the ultimate result of the scheme was stopped at a time before the public suffered the huge loss that was planned for it by these gentlemen.

MR. GOULD: Your Honor, I object to that. I am sure counsel isn't going to prove --

THE COURT: Yes. We don't want any of these adjectives coming in on an opening.

MR. WALKER: Very well, your Honor.

In deciding this case, ask yourself some important questions as you listen to the evidence. Who knew the truth about the scheme and also why were Weisman and Lassoff doing business with Mr. Hellerman?

MR. GOULD: I object to that, your Honor.

THE COURT: He is entitled to draw that from the facts. I will allow that.

MR. WALKER: As I said to you before, at the close of this case I will have the opportunity to address you in summation. At that time I will review all of the evidence to you as it has been presented from the witnesses at this trial. I will ask you to return a verdict of guilty as charged against these defendants.

* * *

MICHAEL C. HELLERMAN, called as a witness by the Government, being first duly sworn, testified as follows:

MR. WALKER: May I proceed, your Honor.

THE COURT: You may.

DIRECT EXAMINATION

BY MR. WALKER:

Q Mr. Hellerman, have you ever been convicted of a crime?

A Yes, I have, sir.

Q Have you pleaded guilty to a charge of fraud in connection with the stock of a company called Imperial Investment Corporation?

A Yes, sir.

MR. GOULD: If your Honor please, wouldn't it be better if we start to try this case instead of this approach to it?

THE COURT: No, he is allowed to do that.

MR. GOULD: I beg your pardon.

THE COURT: He is allowed to do this on his direct.

Q Have you plead guilty to the charge of fraud in connection with the stock of a company called Imperial Investment Corporation?

A Yes, I have, sir.

Q Did you also plead guilty to a charge of fraud in connection with the stock of a company called Belmont Franchising Corporation?

A Yes, I have, sir.

Q Did you also plead guilty to a charge of fraud in connection with the stock of a company called At Your Service Leasing Corporation?

A Yes, I have, sir.

Q And have you been sentenced by a Federal judge in this Court House?

A Yes, I have, sir.

Q What sentence did you receive?

A Judge Lasker sentenced me to two years in prison, he placed me on probation for five years to start after my prison sentence was over, I agreed to make restitution of $100,000, and I was barred from the security business for

life.

Q Mr. Hellerman, in late 1970 did you reach an agreement or understanding with the Government?

A Yes, did, sir.

Q What was that agreement?

A I --

MR. GOULD: I am going to object to this, your Honor, at this stage.

THE COURT: Overruled.

MR. GOULD: I will object to it then as to its form, as to him stating what the agreement was. If it was oral, then we ought to get a conversation in the usual way, and if it was in writing, let's have a piece of paper in the usual way.

THE COURT: Go ahead.

MR. WALKER: Your Honor, the Government is offering this to show this witness' state of mind and intention.

THE COURT: Tell him to state what the conversation was.

Q Would you tell us what the conversation was, sir?

MR. GOULD: If your Honor please, with whom, where, when? It's no different from any other conversation.

THE COURT: Go ahead.

MR. WALKER: Very well.

A Mr. Morvillo, who was then Chief of the Fraud Unit of the U. S. Attorney's office, in Mr. Morvillo's office in this building, and I reached an oral agreement whereby I would --

MR. GOULD: Move to strike it out, your Honor.

THE COURT: Overruled.

A -- where I would plead guilty to one count in the Imperial Investment indictment and I wouldn't be prosecuted in the other stock manipulations that I participated in. I did not have to testify for the Government in that understanding I had with Mr. Morvillo. All I would have to do is tell him what happened in the stock deals and cooperate with him, but I wouldn't have to testify for the Government.

Q Mr. Hellerman, following that agreement did you go out and commit further crimes?

A Yes, I did, sir.

Q Was one of those crimes a fraud in connection with the stock of Automated Information Systems, Inc.?

A Yes, sir.

Q Did the commission of those crimes result in additional punishment or sanctions against you?

A Yes, they did, sir.

Q What were those?

A When my attorneys renegotiated a written agreement with the Government --

MR. GOULD: I move to strike it out as not responsive.

THE COURT: He says he has a written agreement. Where is it?

MR. WALKER: I have it, your Honor.

Would you mark this Government's Exhibit 10.

(Government's Exhibit No. 10 was marked for identification.)

Q I show you this written agreement and ask you to glance through it and ask you whether or not that is the agreement which you executed.

MR. WALKER: Your Honor, may we see your Honor at the side bar?

THE COURT: You may.

(At the side bar)

MR. WALKER: Your Honor, this is the redacted agreement that was offered at the last trial. The Government would seek to offer it again at this trial.

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THE COURT: Does Mr. Gould know what is redacted?

MR. GOULD: I don't know what he means. I have a copy of something that is marked 3506.

MR. WALKER: Fine. That agreement is the original one and this witness can identify it.

THE COURT: All right. You want him only to identify the redacted version?

MR. WALKER: No, I will have him identify the original.

THE COURT: Before you go away, let Mr. Gould let us know whether he is going to object to it, or Mr. Hawke.

MR. HAWKE: We had a problem with this. There was a problem in the first trial, your Honor. The written agreement was allowed in when Mr. Panzer raised certain questions about the punishment the witness was subjected to because there was a good deal of material in this written agreement which referred to organized crime and threats on his life and all of that.

I don't know whether that is in the redacted version.

MR. GOULD: They are offering it. Let him offer it and then if we want to cross-examine about it, I suppose we will cross-examine.

3 jhmch Hellerman-direct

THE COURT: Mr. Hawke has refreshed my recollection about the redaction as to organized crime, et cetera. That was redacted?

MR. WALKER: Yes.

MR. GOULD: I have the impression that there are many copies of this thing kicking around. I got a copy of it from other sources --

THE COURT: Mr. Gould, this was cut down, I assume, as a result of an agreement on the first trial between the Government and counsel. But if you have no objection to it I have no objection to it.

MR. GOULD: I have no objection.

What are you worried about, someone will knock him off? It might be a boon.

THE COURT: We are worried about that right now. They may miss and hit me.

MR. GOULD: If there is any real danger, of course, we will respond to it.

MR. HAWKE: The problem in my mind is in injecting into this trial the threats made upon Hellerman. Some of that may rub off on our defendants.

THE COURT: That was the basis of the first objection.

MR. HAWKE: There are references in this redacted

version to taking precautions for Hellerman's physical safety and locating him so people wouldn't learn where he is and all of that.

I object to that.

MR. WALKER: It's all part of the agreement.

MR. HAWKE: There is a lot more to this agreement, the original version.

MR. GOULD: Your Honor, I don't object to it.

THE COURT: You have no objection to it --

MR. GOULD: As it is.

THE COURT: Complete?

MR. GOULD: That's right. The only thing I want is a legible copy.

MR. HAWKE: I am objecting to these portions.

THE COURT: He is going to offer the full one, Mr. Hawke. So it's even bigger than the redacted one. Mr. Gould says he has no objection to the full one.

MR. GOULD: The full version.

THE COURT: Off the record. Let them discuss it.

(Discussion off the record)

MR. HAWKE: I will withdraw my objection to the offer of Government Exhibit 10.

1 jwmch Hellerman-direct

(In open court)

Q Mr. Hellerman, I show you Government's Exhibit No. 3506-B for identification. I ask you if you can identify that document.

A Yes, sir.

Q What is it?

A This is a written agreement I entered into with the Government.

MR. HAWKE: Is there a date on that? Do we have the time?

THE COURT: Don't you have a copy of it?

MR. HAWKE: Well, my copy doesn't have any signatures on it, sir.

THE COURT: Does it have a date on it?

THE WITNESS: Here's the copy, your Honor.

THE COURT: It has some signatures on it, but I don't see any date.

MR. WALKER: Perhaps Mr. Hellerman can tell us.

THE COURT: About when was this entered into, Mr. Hellerman?

THE WITNESS: October 1972, your Honor.

THE COURT: 1972?

MR. WALKER: We offer it, your Honor.

THE COURT: Show it to Mr. Gould.

MR. GOULD: May we have a moment to confer, your Honor?

Mr. Walker and Mr. Hawke, would you step back here a moment?

(Pause)

MR. WALKER: We offer it.

THE COURT: Wait a second. Do you wish to change the date?

THE WITNESS: No, that is correct, your Honor.

THE COURT: October 1972?

THE WITNESS: That's right, yes.

MR. WALKER: Your Honor, I might state for the record we examined the document. Mr. Gould's copy is dated October 17,1972.

THE COURT: All right.

No objection?

MR. GOULD: I would just like to look at it before. I want to compare it with one signature.

(Pause)

MR. GOULD: I have no objection.

(Government's Exhibit No. 3506-B was received in evidence.)

MR. WALKER: Your Honor, may I read this document to the jury?

THE COURT: The whole thing?

MR. WALKER: I can ask Mr. Hellerman a few questions about it.

THE COURT: Go ahead. Ask him a few questions.

MR. WALKER: Very well.

Q Mr. Hellerman, with regard to the agreement executed in October of 1972, what was that agreement?

MR. GOULD: I don't know what that question means.

THE COURT: Well, from Mr. Hellerman's point of view, what were you charged with and what were you getting off with?

MR. WALKER: Right.

MR. GOULD: That is not the question.

THE COURT: I think it is.

Q I adopt that question.

A I now had to plead guilty to three different indictments rather than one indictment in my oral agreement. Mr. Morvillo requested additional crimes I committed. I had to plead guilty to three different indictments and I faced a possible jail sentence of six years rather than the maximum sentence I could have gotten on the oral agreement of two years.

I also had to testify for the Government,

which in the first case -- the first understanding I had with the Government I didn't have to testify for the Government. In this case I had to agree to testify for the Government whenever they asked me to, and I had to testify truthfully for them in all cases before all grand juries.

And for doing that they promised to protect me so that nobody I testified against would be able to kill me.

They promised to relocate me and my family so nobody would be able to find me or my family, to give me a complete new identification, and that would only be known to certain people in the Department of Justice.

Q Mr. Hellerman, have you served all or part of the two years' imprisonment that was imposed upon you by Judge Lasker?

A Yes, I have, sir.

Q How much of that sentence have you served?

A Approximately nine and a half months.

Q Have you paid back any of the monies that you were ordered to pay back with restitution?

MR. GOULD: Your Honor, I object to this. I don't think this has anything to do with the case.

THE COURT: Sustained.

MR. WALKER: Your Honor, I believe in another proceeding the Government was permitted to go into this.

THE COURT: Go ahead. Next question.

Q Now, was your sentence reduced by a judge of this court?

A Yes. Judge Lasker reduced my sentence to time served after I had served approximately nine months which was more time than I would have served in the normal -- time for normal parole, but because of my circumstances --

MR. GOULD: I move to strike that out.

THE COURT: Sustained.

Q Mr. Hellerman, to your knowledge, did the Government have anything to do with that reduction of time?

A No, definitely not. My attorney, Mr. Broderick, informed me when he was going to argue the motion to reduce, he told me the Government would not help get a reduction in any way.

Q Now, Mr. Hellerman, aside from the three times you pleaded guilty, have you committed other crimes for which you have not been prosecuted?

A Yes, sir.

Q And what is your understanding with respect to those other crimes?

MR. GOULD: I object to that as to form.

THE COURT: I sustain it.

Q Is it your understanding that you will not be prosecuted for the crimes that you have committed except for the crimes that you have been sentenced for?

MR. GOULD: I object to that as to form. If there was a conversation, I think we should have it. If there is another piece of paper we should have it.

THE COURT: Agreed.

Q Did you have a conversation with respect to what the Government would do as far as the additional crimes that you have committed?

MR. GOULD: Same objection.

THE COURT: Overruled.

A Yes.

THE COURT: With whom?

Q With whom?

A Mr. Morvillo, Mr. Schreiber, Mr. Walker, Miss Neiman, every -- practically every Assistant U. S. Attorney that I testified in cases that they had.

Q And what was your understanding as told to you by those people?

THE COURT: What did they tell him?

MR. GOULD: Judge, I think we are entitled to know who told him what and where and who was present.

MR. WALKER: Very well.

Q When was the first such conversation and who was present?

A Well, the first conversation was told to me by Mr. Broderick after he had negotiated the written agreement with Mr. Morvillo and Mr. Schreiber told me that --

THE COURT: Mr. Schreiber being an Assistant United States Attorney?

THE WITNESS: Yes, sir.

A (Continuing) -- that I have to make sure that everything I testify to I must testify to 100 percent truthful, and that he would personally see to it that if I said one thing false that he personally would see that I would be prosecuted for the -- not only for that but for every other crime I ever committed. But if I testified truthfully and I was available any time the Government needed me, that I would not be prosecuted for any crimes I committed in the past, except the three I pleaded guilty to.

Q Mr. Hellerman, did you ever have a conversation with me on that subject?

A Yes, I did, sir.

Q And what was that conversation?

A You told me that if I tell one lie, if you find

out that I don't answer truthfully to every question that you asked me, that you personally would see to it that I would be prosecuted not only for perjury but for every other crime that I ever committed.

* * *

* * *

Q You were talking about various deals that you entered into and you mentioned the name of Mr. Weisman. Directing your attention, sir, to May 3rd, 1971, did you have a conversation with Mr. Weisman on that day?

A Yes, I did, sir.

Q Do you see Mr. Weisman here in the courtroom?

A Yes, I do, sir.

Q Would you point him out?

MR. GOULD: I concede the identification of the defendant.

A Right there.

THE COURT: What was the date?

MR. WALKER: May 3rd, 1971.

Q Would you describe that conversation, Mr.

Hellerman? Was it in person or over the telephone?

A Telephone, sir.

Q And where were you?

A I was in the Carriage House in New York City.

Q And what was that conversation as best you can recall it?

A I called Sam and I told him -- I said, "Sam" -- we had just straightened out an agreement on the money I owed him involving a Reno, Nevada deal, so I just said to Sam -- I said, "Now that we have got everything straightened out and we are going to work something out, would you care to make some money?"

He said, "What do you have now?"

I said, "Sam, this is a little different than Tabby's, a little different than Imperial, a little different than Belmont because in those deals"--

MR. GOULD: I move to strike it.

THE COURT: Sustained.

MR. WALKER: It is the conversation, your Honor.

THE COURT: He is not explaining the conversation; he is stating what the Reno deal was and the Imperial deal was.

MR. WALKER: I believe he is talking about a conversation.

THE COURT: If he did, I didn't get that impression.

What did you say in words to Mr. Weisman?

THE WITNESS: I told Mr. Weisman that "This is different than the Tabby's deal, it is different than the Imperial deal, it's different than the Belmont deal."

I explained to him that in those deals I guaranteed, or specifically in Tabby's I guaranteed his losses against half the profit. In this deal I would put up half the cash.

I told Mr. Weisman -- I said, "You know, if I'm putting up half the cash that I got the box in the stock, Sam, and I am taking the stock to $20, we'll all make a lot of money. But it's going to be a 60, 90-day deal, but whatever amount of shares you buy I'll give you half the cash. Now, if the stock drops 25 per cent, you have a right to sell out all the stock and you keep the proceeds, if it should drop, to make yourself whole with the cash that I gave you or will give you and the proceeds you will get from selling out the stock. You make yourself whole first and then give me back whatever is left over for myself if the stock should drop 25 per cent. So this way you can't lose.

"On top of that, Sam, that in case it does drop,

let's say 40 per cent, and you just get your money back between the cash and the sale of the the stock, you could take a tax loss for half the money that you invested with a check and you got my cash that you don't have to report. So you can't lose because I'm giving you enough leeway."

And he said, "Fine. How many shares should I buy?"

So I said, "Buy as many as you could afford to buy."

So we agreed on 3000 shares.

So Sam called me back, oh, about 15 minutes later and he said he called his broker, Mr. Lassoff, and Mr. Lassoff couldn't find those amounts of shares on the street for sale.

So I said, "That's crazy, Sam, because I'm moving the stock from lower levels to higher levels and I am sure he could buy the stock."

He said, "Well, you speak to Mr. Lassoff."

Now, I don't remember if I called Mr. Lassoff or Mr. Lassoff called me, but I directed Mr. Lassoff where to find the stock and at what levels they should pay for the stock. And it didn't take 20 minutes or a half hour Sam had called me back that he purchased 3000 shares of stock. I told him to get the exact figures and I

would send him the cash which I said would be about $6700 or $6900. I forget the exact amount of the trade. But in round figures it was a little less than $14,000 purchased for the 3000 shares, and I sent him half in cash. Now --

Q Did you -- go ahead.

A Now, Mr. Weisman said to me when he called me back -- he said, "Could Mr. Lassoff get in on this deal" --

Q Mr. Hellerman, before you go on I want to take you back to an earlier period of time now.

Directing your attention --

THE COURT: Do I understand that you sent Mr. Weisman $7000 in cash?

THE WITNESS: Approximately, sir. It could have been 6700, 6900, but half the -- the exact half of what the purchase price was.

THE COURT: Go ahead.

Q Mr. Hellerman, I want to take you back now to 1969 and ask you whether or not you had a conversation with Mr. Weisman at that time in his office concerning Tabby's stock at that time?

A Yes, sir.

MR. GOULD: Objection, your Honor. What has that got to do with this case?

MR. WALKER: Your Honor, that issue Mr. Gould put into issue in the opening.

THE COURT: What do you mean he put it into issue?

MR. GOULD: I didn't put anything into issue.

THE COURT: He just said the indictment ought to be dismissed. That is all Mr. Gould ever said. But I will overrule the objection, Mr. Gould.

Q Mr. Hellerman, approximately when did this conversation occur?

A A week or so before the offering of Tabby's International, which was stock offering that J. M. Kelsey was underwriting and I was the hidden owner of J. M. Kelsey.

MR. GOULD: If your Honor pleases, if we are going to get a conversation, let's get the conversation.

THE COURT: Right, give us the conversation.

What did he say to you and what did you say to him?

A I told MR. Weisman that we're coming out with a new issue at $2. It would be a very quick deal and I would take him out of the stock, about $3.50 or $4. I explained to him the stock had to go up because we had the box again and we had to retail, take the people out

of the stock. It was all set up, the whole deal.

I guarantee the losses, Sam, but instead of giving you half the profit, you can keep half of the profit I am going to make and apply it towards what I owe you for the Reno deal."

MR. WALKER: May we have this document --

Q Excuse me, Mr. Hellerman, how long had you known Mr. Weisman prior this?

A Ever since I can remember, all my life.

Q Do you know his son?

A Yes, I do.

Q Who is his son?

A Herbert Weisman.

Q Is he sitting here in the courtroom?

A Yes, he is.

Q Would you point him out?

A Next to Mr. Weisman, the third man from the left.

Q And the time you are talking about in 1969 were Mr. Herbert Weisman and Mr. Samuel Weisman in law practicing together?

A Yes, sir.

Q Where?

A In the same building that J. M. Kelsey had their

office, where my brokerage firm had the office, Mr. Weisman had his office.

Q Did you see them rather frequently during that period of time?

A Yes, sir.

Q What was your relationship to J. M. Kelsey?

A I was a hidden underwriter. I had been barred from the securities business in 1961 so I couldn't disclose that I was an owner of J. M. Kelsey & Company. So I had my friend Jack Kelsey form a firm and I was the hidden owner.

Q Did you have any conversations with Mr. Sam Weisman or Mr. Herbert Weisman about that?

A Yes, sir.

Q When?

A Constantly. Sam or Herb would ask me how I am doing, how is the business going, how is everything going, because I would see them quite often, we were in the same building.

THE COURT: Do I understand that you are saying you told the defendant Mr. Weisman that Kelsey was just a front for you, that you were the hidden owner of Kelsey?

THE WITNESS: One of the owners. Kelsey owned part of it himself, sir, but I was one of the hidden owners,

and I told Mr. Weisman that.

THE COURT: You told Mr. Weisman that?

THE WITNESS: Both Herbert and Sam.

THE COURT: I don't care about Herbert. He is not on trial here.

THE WITNESS: Yes, I did.

THE COURT: Did you tell the defendant Mr. Weisman?

THE WITNESS: Yes.

THE COURT: All right.

MR. WALKER: Could we mark this Government's Exhibit 11?

(Government's Exhibit 11 was marked for identification.)

xx Q Mr. Hellerman, I show you Government's Exhibit 11 for identification and ask you if you can identify this book.

A Yes, sir.

Q What is it?

A This is the ledger of J. M. Kelsey & Company.

Q Now, specifically I show you --

MR. WALKER: Let me mark this 11-A for identification, the particular page.

xx (Government's Exhibit 11-A was marked for

identification.)

Q Is this book kept in the ordinary course of business of J. M. Kelsey Company?

A Yes, sir.

Q Was it part of the ordinary business of J. M. Kelsey to keep these records?

A Yes, sir.

Q And are the entries made in this book made on or about the time that the events occur?

A Yes, sir.

Q Which lead to those entries?

A Yes, sir.

MR. WALKER: I offer this document.

MR. GOULD: May we see what it is you are offering?

MR. WALKER: Yes.

(Pause.)

MR. GOULD: If your Honor pleases, all this shows is that there is a period Mr. Weisman had an account with this company and bought some stock. That has nothing to do with this case. It is not the stock in this case, but some other stock.

THE COURT: Tabby's?

MR. WALKER: Yes.

THE COURT: I will let it in.

MR. ~~WALKER:~~ Halpike Your Honor, I have an objection. I don't think that book has anything to do with Mr. Lassoff and is not part ofthe conspiracy.

THE COURT: It only comes in against the defendant Weisman, his prior knowledge.

MR. WALKER: That's correct, your Honor.

MR. GOULD: If your Honor please, I don't want to prolong the argument. There is no issue he bought stock and there is nothing wrong with his having bought stock. This doesn't corroborate what he said he told him about.

THE COURT: It corroborates there is actually a stock purchase, part of it.

The objection is overruled.

MR. GOULD: Can we just ask him something about the book because I have never seen this before, before your Honor rules finally on its admissibility?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. GOULD:

Q Did you make entries in this book?

A Yes.

Q Did you ever see anybody else's entries?

A Steve Schoengold.

Q Who?

A Steve Schoengold.

Q And you recognize this as his handwriting? This page which has been offered, do you recognize this as Mr. Schoengold's handwriting?

A I would not swear to it, that it was his handwriting, sir.

Q Where did you get this book?

A Mr. Walker showed it to me this afternoon.

Q Have you seen this book since 1967?

A No, sir, not '67. Excuse me -- since it has gone -- Kelsey went out of business I haven't seen it.

Q When did Kelsey go out of business?

A '69, '70. I don't know the exact date.

Q Did you know this page was in the book when you saw it while you were in Kelsey?

MR. WALKER: Your Honor, may I ask Mr. Gould for a stipulation about this? Or if there is any real question about it, about the fact that the transaction being recorded on the J. M. Kelsey ledger, I will be glad to discuss it.

THE COURT: Maybe this woule be a good time to adjourn for today.

The lawyers will sit around and work this problem out. You may go home. We will see you tomorrow morning at 10 o'clock.

(The jury left the courtroom.)

(In open court, without the presence of the jury.)

THE WITNESS: May I go now?

THE COURT: No.

All right.

MR. GOULD: May we just have a minute to look at that, your Honor? There is something there that puzzles us.

(Pause.)

MR. GOULD: Your Honor, I am going to withdraw the objection to this page. In view of your Honor's ruling with respect to the account, I withdraw my objection to it.

(Government's Exhibit 11-A was received in evidence.)

xx THE COURT: All right.

You may step down.

(Witness temporarily excused.)

THE COURT: All right, 10 o'clock tomorrow morning. We will sit to 4.30 hereafter.

MR. GOULD: Yes, sir, I will make arrangements on that basis.

(Adjourned to Tuesday, November 19, 1974, at 10.00 o'clock a.m.)

UNITED STATES OF AMERICA

vs. 73 Cr. 903

SAMUEL WEISMAN and HAROLD LASSOFF.

New York, November 19, 1974:
10.10 o'clock a. m.

(Trial resumed.)

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(In the robing room.)

THE COURT: What is your problem?

MR. GOULD: Judge, I thought maybe if we had a two or three-minute talk about this we could probably save some time. You were quite properly critical of me yesterday for making captious piddling little objections, and they are captious and piddling. However, I think the reason is that I was under considerable provocation to do it because of the way we were making the record on this man.

With all due respect to Mr. Walker, when he wants to elicit a conversation there is a standard way of doing it and that standard way was being violated somewhat consistently. If he would simply stick to "Did it happen, who was there, when and what was said," we wouldn't have

this trouble. That seems to stimulate on the part of this witness a tremendous state of material that is not really responsive to the question.

THE COURT: You are right. In fact, my experience with him in the trial of the other defendants was that even if you do it properly he volunteers an awful lot.

MR. GOULD: Well, so all I can suggest -- and my reason for speaking with you about it -- I know your task is just as difficult as mine in dealing with a witness like this -- I am not apologizing for the kind of objections I had to make yesterday because I just don't know any other way to do it, and even if I did know another way, the reflexes of 40 years take over, as you well know.

I would like to make this suggestion:

If Mr. Walker would stick to the standard technique for eliciting the testimony, which I am sure he is thoroughly familiar with, and if your Honor would caution this witness simply to listen to the question and respond to it, we probably would save hours of these niggling silly little objections I have to make.

THE COURT: Caution him first to answer directly.

MR. GOULD: That is all I want.

MR. WALKER: Your Honor, let me just say Mr.

Gould in his opening stated that the fact of the manipulation and Mr. Hellerman's participation in it wasn't really an issue, and essentially I was trying to get to the point, and now that we are --

THE COURT: Wait. You forget something:

That while he is not denying that Hellerman and the others were involved in manipulations, he certainly is going to fight very strongly against what the plan was because you were setting a pattern in which you said his client fit very nice and easy in addition to twenty other people, so he had to know what the plan was.

MR. WALKER: Yes.

MR. GOULD: And we did get a lot of gratuitous, you know, self-exculpatory baloney.

THE COURT: He gave you the stuff about check cashing. I know who he was talking about; I heard the story once.

MR. GOULD: I am just making this suggestion in the interests of moving along. I don't enjoy it, and neither does Mr. Hawke; he had the same trouble I had yesterday. And we simply thought we would call it to your attention and ask you to make some effort in that regard.

THE COURT: I tell you what you ought to do,

Mr. Walker, when we continue this morning:

As a prelude to your first question, tell the witness to listen carefully to the question and you only want an answer to the question and nothing else. Let us see what happens.

MR. WALKER: Right. We are now at the stage where we are dealing expressly with these defendants and I plan to go meticulously and slowly into the area with him, and I will make every effort to comply with Mr. Gould's and the Court's wishes.

THE COURT: All right.

MR. HAWKE: I do not want to interrupt the proceedings with objections based upon my motion yesterday. I just want to complete the record as to what the ground of my motion was. My motion to preclude didn't have to do with the insufficiency of the proof of conspiracy, but rather prejudicial surprise based on the Second Circuit case United States against Glaze where the Court said that the Government is strictly limited to proving what is set forth in its bill of particulars.

THE COURT: What is the citation of that case?

MR. HAWKE: I have it in my briefcase and I will be happy to submit a memo to the Court.

THE COURT: I don't need a memo. Just give me

the citation.

MR. HAWKE: Yes, your Honor.

THE COURT: This must be the tenth time he told the story. He goes on, "Don't you know what I am talking about? You're supposed to know what I am talking about."

MR. GOULD: You get it from all these pros. They're like trained seals.

MR. HAWKE: The citation is 313 Fed. 2d 757, 759 where the Court made that statement about the Government's proof. I wish to direct the Court's attention to that.

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(In open court - jury present.)

M I C H A E L C. H E L L E R M A N , resumed.

THE COURT: You may proceed.

DIRECT EXAMINATION (Continued)

BY MR. WALKER:

Q Mr. Hellerman, yesterday at the time that we recessed I asked you a question concerning Tabby's stock in 1969. Do you recall that?

A Yes, sir.

Q We broke off in the middle of that series of questions. Could you tell us, sir, directing your attention to the fall of 1969, what conversations you had with Mr. Weisman concerning Tabby's?

MR. GOULD: I have the same objection I posed yesterday.

THE COURT: Overruled.

A About a week or two before the offering of Tabby's, when J. M. Kelsey was going to underwrite Tabby's I went to Mr. Weisman's office and I told Mr. Weisman that I was coming out with a new issue called Tabby's International, it was going to be a very short deal, I would guarantee his loss and I would want 50 per cent of the profit, and I told him that he didn't have to give me the profit in cash or check, he could apply it to the money I

owed him from the Reno deal we had.

I told Mr. Weissman that the stock was coming out at $2, he would have to hold it -- it would be a- short deal, but he couldn't go to anybody else and sell the stock, because I didn't want to break the box, I would take him out, I put him in and I would take him out, and I would get anywhere between 3-1/2 and $4 for the stock, and Mr. Weisman said, "Okay, how many shares should I get?"

I said, "Sam, whatever you want."

He called in Herbert, his son, and he said, "Mike's got a good deal. How many shares do you want?"

And Herbert said, "I'll think about it."

And Sam said should I get some for his other son-in-law and other members of his family and he said, "Could I put my secretary in. could I get my secretary some stock?"

So I said, "Sam, anybody you want, because I want to try to make up to you the money I owe you from the Reno deal," and I said, "When you make the profit on this deal, Sam, there will be a lot of deals like this, and maybe I can pay you back the money I owe you from the Reno deal with my end of the profit that I would make on the deal."

And Sam said, "Let's see what happens in this

deal and then we'll discuss it."

Q Do you know the name of Mr. Weisman's secretary at that time?

A Miss Marver.

Q Do you know how to spell that?

A I think M-a-r-v-e-r.

MR. WALKER: Could we mark this 11-B for identification.

(Government's Exhibit 11-B was marked for identification.)

xx MR. WALKER: Your Honor, let me say when the Government marked 11-A for identification and there was an objection that objection was withdrawn by defense counsel. That is the ledger page referring to Samuel Weissman. That was received in evidence yesterday in the absence of the jury.

MR. HAWKE: It's not withdrawn as to the defendant Lassoff.

THE COURT: I direct that exhibit will apply only to the defendant Weisman. It will have nothing to do with the defendant Lassoff.

(Government's Exhibit 11-A was received in

xx evidence.)

MR. WALKER: Would you mark this one 11-C.

(Government's Exhibit 11-C was marked for identification.)

xx BY MR. WALKER:

Q With reference to the J. M. Kelsey book which you identified yesterday, can you identify Government's Exhibit 11-B for identification?

A Yes, sir.

Q What is it?

A That's the name of Mr. Weisman's secretary in his law office and --

Q What is this document though? Is this a ledger page?

A This is a ledger page reflecting that she bought 200 shares on November 26th at $2 and sold --

Q Mr. Hellerman, this is a ledger page at this point?

MR. GOULD: If your Honor please, can't we get --

THE COURT: Wait, wait. Just answer the questions that he asks. Please don't volunteer any information.

You were asked to identify the page. You have now said it's a ledger sheet for Miss Marver.

Q Is it Rose Maver?

A Yes, sir.

THE COURT: And now you want to offer that in evidence?

MR. WALKER: Yes, your Honor.

THE COURT: Take it back to Mr. Gould and show it to him.

MR. WALKER: I can save time if --

THE COURT: Why don't you take it back to Mr. Gould and show it to him.

MR. WALKER: Very well.

MR. GOULD: Can we come up?

(At the side bar.)

MR. GOULD: If your Honor pleases, I understand the rationale understand the rationale underlying your Honor's overruling my objection with respect to the purchase of the Tabby's stock by the defendant Weisman, but what possible relevancy is there in the purchase of the stock by his secretary and, as we are about to get by the son?

A, they are not defendants in the case.

B, it's the most peripheral kind of thing. There is no evidence that this was a phony stock or a rigged stock or that Weisman was told it was a phony --

THE COURT: He just testified he owned the box and was going to run the price up.

MR. GOULD: Why do we have to have it as to the son --

THE COURT: Because the witness has testified this was the conversation he had with the defendant Weisman and that the defendant Weisman said, "Can I put other people in" and the witness said, "Yes."

He said he was going to put some for the secretary. Now they are showing he did put some for the secretary.

MR. GOULD: There has been no case about it. It's just corroboration.

THE COURT: I think it's important.

MR. GOULD: Why do we have to have corroboration on something that is as peripheral as this?

THE COURT: I don't think it's peripheral at all.

MR. GOULD: In other words, if it's offered your Honor will receive it as to the secretary and the son?

THE COURT: To show the corroboration of the conversation he calims he had with the defendant Weisman on Tabby's, which was a rigged stock, and the defendant Weisman, according to this witness, knew it was a rigged stock.

MR. GOULD: All right. I understand your

Honor's ruling. The record will show the objection.

THE COURT: Yes, the objection to both B and C.

(In open court.)

MR. WALKER: May it be received in evidence, your HOnor.

THE COURT: Exhibits 11-B for identification and 11-C for identification are received in evidence, and again I tell the jury they are received in evidence only against the defendant Weisman and not against the defendant Lassoff.

(Government's Exhibits 11-B and 11-C were received in evidence.)

xx MR. WALKER: Your Honor, these exhibits weren't shown to the jury yesterday.

THE COURT: Just tell them what it is.

MR. WALKER: Summarize the entries? Very well.

11-A is a ledger page bearing the name Samuel Weisman, 535 Fifth Avenue, New York 10007, and it shows an entry entitled Tabby's International, bearing a date November 20th, bearing an entry 2000 at 2, and reflecting a debit of $4000. It also bears an entry December 2nd, 2000 at 4, with a credit entry of $7975.

11-B is a ledger page bearing the name Rose Mayer, 365 Bronx River Road, Yonkers, New York 10704, and

it shows an entry reflecting a purchase of Tabby's on November 26th, 200 at 2 for $400, and a sale December 2nd, 200 at 4-1/2 for $847.

Government's Exhibit 11-C for identification, in evidence now, is a ledger page bearing the name Herbert L. Weisman, address 88 Meadow Woods Road, Great Neck, New York, and there is an entry for November 26th of a purchase of Tabby's International, 1500 at 2 and 2000 at 2, and another entry on December 2nd reflecting a sale of Tabby's, 3500 at 4. The purchase price is $7000 and the sale price is $13,959.25.

1/19/74 M 2b

BY MR. WALKER:

Q Mr. Hellerman, at or about the same time, that is, directing your attention to the fall of 1969, did you have a conversation with Mr. Weisman concerning the stock of Imperial Investment Corporation?

A Yes, sir, I did.

Q Did you have more than one conversation or just one conversation?

A More than one conversation, sir.

Q Take each conversation in series and tell us who was present and where the conversation occurred, and limit yourself just to the words spoken if you can.

MR. GOULD: Your Honor, may I have a particular objection to conversations with respect to this other security?

THE COURT: Yes. Same ruling.

A The first conversation, Tabby's -- Imperial was about $4, $5 a share.

MR. GOULD: If your Honor please, I object to this and move to strike it out.

Can't we get a response from this man?

THE COURT: You just answer the question, please. What did you say to him and what did he say to you?

A I told Mr. Weisman in his office, I told Sam

that I thought Imperial was a good buy, that I thought the stock was going to move up considerably, that I was starting to pay off a few brokers to buy the stock. I just told him.

Sam didn't say he was going to buy any stock or that he would buy any stock.

THE COURT: No. Just what did you say, what did he say, the words that were used.

THE WITNESS: He didn't say anything. "Thank you for telling me," and that was it.

THE COURT: All right.

Q Did you have another conversation with Mr. Weisman following the first?

A Yes, sir.

Q Approximately how long after the first conversation did you have the second conversation?

A A short time, a couple of weeks.

Q Where was that conversation?

A In Mr. Weisman's office.

Q What did you say and what did Mr. Weisman say?

A I told Mr. Weisman that I had made a deal with Murray Taylor, a man by the name of Murray Taylor, and that he was going to put a lot of buying into the stock. I don't know if he had bought any Imperial or he was going

to buy --

Q Mr. Hellerman --

A I told this to Sam. This is what I told Mr. Weisman. "I don't know if you bought any stock or you didn't buy any stock, but if you didn't, the stock is going to move and I am just telling you like a friend to buy the stock," and he thanked me again. He didn't tell me if he bought any or if he didn't.

Q Did there come a time when you gave certain stock to Herbert Weisman?

A Yes, sir.

Q Do you know how much that was?

MR. GOULD: I will object to this unless we get some kind of offer of proof.

MR. WALKER: It will be reflected in a conversation later on, your Honor.

THE COURT: Let's get the conversation first.

Q Did you subsequently have another conversation with Mr. Sam Weisman?

A Yes, sir.

Q What did you tell Mr. Weisman at that time and what did Mr. Weisman say?

MR. GOULD: When? Where?

THE WITNESS: In Mr. Weisman's office.

Q Approximately how long after the conversations that you have testified to so far?

A I can't be accurate about that. I can give it -- I know another event that happened that could fix that time, sir, but I can't -- I don't know -- there is another event that happened that I could fix that time with.

Q What event is that?

A When I was under investigation by New York State on a stolen bond case that Herbert represented me on.

MR. GOULD: If your Honor please, I move to strike it out.

THE COURT: Strike that. The jury will entirely disregard it.

Please stop volunteering around here.

Q Mr. Hellerman, would you tell us now what the conversation was you had with Sam Weisman?

A In Mr. Sam Weisman's office I went over my retainer agreement that I had made with Mr. Herbert --

MR. GOULD: Move to strike it out.

Q What did you say?

A I told Mr. Weisman that Herbert had gotten $5,000 in cash, meaning a check, from another attorney of mine as a down payment on the retainer and that I didn't --

Herbert wanted another $5,000 and I didn't have that $5,000, the second $5,000, available to give Herbert, so I made a deal with Herbert, and this I was telling to Sam, where I gave him X amount of shares -- I don't remember the amount of Imperial shares now -- and I told Sam that I told Herbert that the agreement Herbert and I had made was that if Herbert got less than $5,000 for the sale of those Imperial shares I would make up the difference towards his fee, but if he got more than $5,000 for the sale he could keep whatever he got over the $5,000.

THE COURT: I strike the conversation. It has nothing to do with the defendant Weisman.

MR. WALKER: Your Honor, this conversation is with the defendant Weisman.

THE COURT: What has that got to do with the charges against the defendant Weisman in this lawsuit?

MR. WALKER: Your Honor, there has been evidence that he toldthe defendant Weisman this was a rigged stock and that --

MR. GOULD: There is no --

THE COURT: Wait a second. I sustain the objection. The conversation is stricken and the jury will ignore it.

The mere fact that a witness tells X what he did with Y doesn't make X subject to indictment and conviction on a charge.

MR. WALKER: Nobody is suggesting that.

THE COURT: Proceed, Mr. Walker.

MR. WALKER: Very well, your Honor.

Q Did there come a time --

MR. WALKER: Your Honor, there were --

THE COURT: Mr. Walker, you know what you are looking for, you know what you have to prove. Now stick to it.

Q Did there come a time in --

MR. WALKER: I just wanted to know which of the three conversations your motion pertains to. There were three conversations between them.

THE COURT: Obviously to this last conversation regarding a fee retainer.

MR. WALKER: Very well, your Honor.

Q Directing your attention to the spring of 1970, did you have a conversation with Mr. Sam Weisman in the spring of 1970 concerning Belmont Franchising Corporation?

A Yes, I did, sir.

MR. GOULD: Same objection, your Honor, a continuing objection on it.

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THE COURT: Same ruling.

MR. HAWKE: I also object. I think it's subject to your Honor's ruling that it's not against the defendant Lassoff.

THE COURT: Both of you are getting a little free here, but I gather that the testimony will come in solely against the defendant Weisman.

The jury will limit such testimony solely to the defendant Weisman. It does not apply to the deferdant Lassoff.

If as we go along you have a specific objection, Mr. Gould, such as this last one you made, you may get up and repeat it. Otherwise the ruling is the same.

MR. GOULD: Thank you, your Honor.

Q Mr. Hellerman, would you tell us now, directing your attention to the spring of 1970, of the conversation you had with Mr. Weisman concerning Belmont Franchsing Corporation --

A Yes.

Q -- first of all, where did the conversation occur and who was present?

A In Mr. Weisman's office and Mr. Weisman and I were there.

Q What was the conversation?

A I told Mr. Weisman that I was taking over the box in Belmont Franchising and would he like to get in the deal. I told Mr. Weisman that we were taking over the box at $15 a share. It was not a new issue. I was buying the box in the Street from somebody that had it and would he like to get into the deal.

Mr. Weisman said no, that he wasn't interested in getting into the deal. Mr. Weisman said to me, "We have too many problems straightening out the money you owe me from Reno and I don't want to do anything until that's straightened out."

And I don't know if he ever bought the stock or he didn't buy the stock.

Q Now, Mr. Hellerman, directing your attention to the end of 1970, did there come a time on or about November 19, 1970 when you were indicted in connection with the Imperial Investment Corporation stock manipulation?

A Yes, sir.

Q Prior to that time, did you have a conversation with Mr. Weisman?

A Yes, I did, sir.

Q What did you discuss? Who was present and where did the conversation occur?

A Well, the first one was Mr. Weisman and myself.

Q Where?

A Mr. Weisman's office.

I asked Mr. Weisman if he would come up to the U. S. Attorney's office with me and speak to Mr. Morvillo to see what could be done for me, because I knew I was under investigation by the U. S. Attorney's Office. Mr. Weisman said he would come up to --

MR. GOULD: I move to strike.

MR. WALKER: It's offered on the same basis, the earlier conversation going to the question of knowledge.

THE COURT: Sustained.

MR. GOULD: I assume that the testimony given is

stricken, your Honor.

THE COURT: The motion was to strike it, was it not?

MR. GOULD: Yes.

THE COURT: Yes, I strike it. That testimony is stricken because it has absolutely nothing to do with the charges in this case or the defendant's guilt or innocence.

The mere fact that you asked a lawyer to represent you because you are being charged doesn't mean the lawyer is being charged.

Q Did there come a time, Mr. Hellerman, when you handed a copy of the Imperial Investment Company indictment to Mr. Weisman?

A Yes, sir.

Q How many counts were you charged in?

A 72.

MR. GOULD: I object to this.

THE COURT: I will let that in. He already said he was indicted on Imperial. He told us that before.

Now he's giving you the number.

MR. GOULD: What difference does it make, how many counts?

THE COURT: It's already in, Mr. Gould. Yesterday it came in.

MR. GOULD: I think your Honor is right. I am just being very cautious about this.

THE COURT: All right.

Q Sir, one other question:

Did that occur at or about the time the indictment was filed?

A Yes, sir.

Q Now, Mr. Hellerman, following all of these events which you have testified about came your conversation with Mr. Weisman concerning Automated Information Systems which you testified about; is that correct?

A Yes, sir.

Q After I believe you testified yesterday that Mr. Weisman agreed to purchase stock in Automated Information Systems.

MR. GOULD: We had this.

A Yes, sir.

THE COURT: That's right.

MR. GOULD: I think we are summing up now.

THE COURT: No, I don't think so. He agreed to buy 3,000 shares.

MR. GOULD: Yes.

Q Now, following that, sir, what was the next thing that happened on May 3, 1971?

MR. HAWKE: I object to the form of that question. It's an invitation to start talking generally.

THE COURT: Yes, limit the witness. He can tell us he went to a baseball game.

MR. WALKER: Very well.

Q Did you have a conversation with either Mr. Lassoff or Mr. Weisman following Mr. Weisman's purchase?

A Yes.

Q Which was it?

A Both of them.

Q Which came first?

A Mr. Weisman.

Q Tell us that conversation.

A Mr. Weisman told me he completed the order for 3,000 shares and he wanted to know if there was room in the deal for Mr. Lassoff, that Mr. Lassoff would like to go into the deal.

I told Mr. Weisman -- I said, "Sam, there is room for anybody in the deal because I need the buying power to move the stock out, but I don't know Mr. Lassoff and I can't have him buying stock and then selling the stock into the market and make a quick profit and break the box

on me. If he agrees to the same terms that you agree to, to hold the stock for 60, 90 days to allow me to take him out, I will make the same deal with him."

So he says, "Michael, anything" -- this is Mr. Weisman -- Sam talking to me -- "Michael, anything you and Harold Lassoff agree to I will guarantee" -- Mr. Weisman said, "I know Harold Lassoff a long time, and anything you and Harold Lassoff agree to I will guarantee."

Then he said, "Shall I have him call you?"

I said, "Yes."

And Mr. Lassoff called.

Q Right. Now, how long -- did he call you shortly thereafter?

A Immediately.

Q And what was the conversation that you had with Mr. Lassoff?

A Mr. Lassoff asked me what my intentions are in the stock, how high was I going to take the stock and at what price that I think his customer would get out.

Q What did you say?

A I said I expected to take the stock to a minimum of $20 a share.

He said, Mr. Lassoff said to me he had a very

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important client whose name was Martin Cohen and he was president of International Products and, "Michael, it's on the American Stock Exchange and it's a very valuable customer to me and I want to make sure the man makes money."

I said, "Harold, if you follow the instructions that I am going to give you for your client and you stay in the stock 60 to 90 days and you don't break my box and don't go behind my back to do anything, the man will make money and we will all make money."

And Harold said -- Mr. Lassoff said to me, "Maybe I have some other customers I can put in the stock."

And I said, "Well, you know" -- Mr. Lassoff said to me, "Where do I fit in, Michael?", and I said to Mr. Lassoff, "I can use more customers, more buying power, but if you get me -- if you get Mr. Cohen to go along on the deal and you have got other customers, Harold, I get 50 percent of the profits and I will put up half the cash and -- with Mr. Cohen and he could take the tax loss after making himself whole if the stock goes down, if the stock goes down 25 percent, he can sell it out, make himself whole -- everything with the cash and what he gets for the sale of stock on his investments, and give me the difference, but for doing this, Harold, I will

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give you 25 percent of the profit or 50 percent of what I make for putting Mr. Cohen in the deal."

And Harold said, "That is very good, Michael. I'm going to buy the stock."

Q Did he say he was going to buy the stock for himself?

A I got the impression he was buying the stock for Mr.Cohen.

Q Now -- okay.

With whom did you have the next conversation in connection with this matter, Weisman of Lassoff?

A It's very difficult for me to say, sir. I spoke to both of them. I don't know in what order they came.

Q Did you have subsequent conversations with Mr. Lassoff?

A Yes, sir, I did.

Q Following this?

A Yes, sir.

Q And what were those conversations?

MR. HAWKE: May I have the date of any conversations?

Q Directing your attention to May 3rd or May 4th.

A On May 3rd or 4th Mr. Lassoff -- or around that time -- Mr. Lassoff said that he wanted to arrange a

meeting with Mr. Cohen and myself; that he wanted me to go up and speak to Mr. Cohen, although he'd already bought the stock for Mr. Cohen.

So I said, "Fine."

Q Excuse me.

MR. WALKER: Excuse me. Can we have the stipulation that the stock was bought on May 4th, the Cohen stock?

MR. HAWKE: Yes.

MR. WALKER: I think it's established.

THE COURT: All right.

A So we made up to meet by Mr. Cohen's building and when Mr. Lassoff got to Mr. Cohen's building --

Q Well, Mr. Hellerman, first of all, the meeting at Mr. Cohen's building, when did that occur in relation to May 4th?

A The next day, or the day after, sir.

Q All right.

And did you have a conversation with Mr. Lassoff in which you arranged to meet there?

A Yes, I did, sir.

Q And did you meet Mr. Lassoff?

A Yes, I did.

Q At Mr. Cohen's building?

A Yes, I did, sir.

Q All right.

Now, tell us what happened after that.

A Mr. Lassoff --

THE COURT: Can we find out who was present?

THE COURT: Yes.

Q Who was present?

A At first Mr. Lassoff and myself, sir.

Q Very well.

A And Mr. Lassoff told me that he didn't want me to tell Mr. Cohen what was going on in the stock, that Mr. Cohen was a valuable customer of his, he was president of an American Stock Exchange firm, a company that was trading on the American Stock Exchange, and Mr. Lassoff just wanted me to tell Mr. Cohen that it was a good company, and that is why I recommended him to buy the stock. He didn't want me to tell him that I had control of the box, that I was going to take the stock for $20 and retail it out, that I was going to pay brokers -- I was paying brokers in the sheets to take the stock --

MR. HAWKE: I object to this, your Honor. Is this a conversation?

A Mr. Lassoff didn't want me to tell this to Mr. Cohen. He told me, "Do not tell this to Mr. Cohen."

Now, we went upstairs to Mr. Cohen's office and in the waiting room, but Mr. Cohen wasn't there. The secretary said Mr. Cohen was not there. He was about an hour, an hour and a half late for the appointment.

And a few times during the waiting we were making idel chatter and Mr. Lassoff asked how fast I could take the stock out, and he could use the money, the 25 percent I was going to give him of the whole profit. And he reminded me a few times,"Please don't tell Mr. Cohen about the deal. Let him think it is a legitimate deal, Michael."

Mr. Lassoff went back and we went to Mr. Cohen's office.

Q Who was present?

A Mr. Cohen, Mr. Lassoff and myself.

Q And where was Mr.Cohen seated?

A Mr. Cohen was seated behind his desk, the window behind his desk, Mr. Cohen at his desk, I was seated at this side, my left, Mr. Cohen's right, and Mr. Lassoff was sitting on the right facing Mr. Cohen.

Q What was the conversation that occurred at that time?

A Mr. Cohen said he didn't understand the deal, he didn't understand why I wanted to give him 50 per cent in cash; that Mr. Lassoff recommended the stock, he would go out and buy the stock.

Why did I want to make a deal with him?

I said I thought it was a very good company, I thought that the price would go up because there was going to be good news coming out on the company and I thought that -- I wanted to accumulate a position and if I let people know that I was buying the stock, then the price might go up too fast. This is what I told Mr. Cohen.

So he said, "Michael, I am going to take the cash and you'll get the cash back the same way that you gave it to me if there is a profit."

And I told that -- the only thing I did tell Mr. Cohen, not thinking, I told Mr. Cohen about the tax angle and I said to him, "You know, if you should sell the stock, if the stock should drop 25 per cent and you sell it out, after you make yourself whole you will have -- and give me back whatever is left over -- you have a tax loss on 50 per cent of the investment and you can take the tax loss because you have the cash in the vault."

He said, "Michael, I don't work that way," he said, "I'm not interested in that. I'm only taking the cash because that was the deal, it strikes me funny, I'm only buying the stock because Harold told me to."

So we shook hands and I gave him the money and that was that. That was the conversation.

Q Did he say what he was going to do with the money?

A As I said before, he said he would hold the money and give me that money back the same way I gave it to him when there is a profit in the stock.

Q Now, Mr. Hellerman, you testified as to conversations concerning your activities that you had with Weisman, Lassoff and Cohen. Were there any matters which you disclosed to Weisman and Lassoff that you did not disclose to Cohen?

A Yes, sir, sure.

Q What were they?

A I told Weisman -- I told Sam and Harold the truth. They knew the truth where Cohen didn't know the truth.

Harold had told me, as I testified, not to tell Mr. Cohen that was going with the stock, not to say it was in the box --

MR. GOULD: I move to strike it out, your Honor.

THE COURT: Sustained. Strike out the testimony, the answer to the last question. And I strike the question also.

You detailed to the jury what you told Weisman and Lassoff and you detailed to the jury what you told Cohen. That is the answer.

MR. WALKER: Very well, your Honor.

Q Following this meeting with Mr. Cohen, did you have further conversations with Mr. Lassoff?

A Yes, sir.

Q And how often would you converse with Mr. Lassoff?

A Every day, a few times a day, sir.

Q And immediately following the Cohen meeting, what was the substance of what was said between Lassoff and yourself?

A Lassoff --

MR. HAWKE: Can we have a time and place of this conversation?

THE COURT: He said he talked a few times a day. Can you detail what happened day by day?

Q Can you detail what happened day by day in the conversations?

A No, sir, but most of the conversations, your Honor --

THE COURT: Covering what period?

THE WITNESS: A couple of days, a week after -- from the 5th to the 6th to the 16th of -- a couple of weeks past that.

THE COURT: Well, a couple of weeks past May 16th?

THE WITNESS: Yes, a week past May 16th, ten days past.

THE COURT: He said he had talks practically every day, sometimes a few times a day from May 5th to May 26th.

Q Directing your attention, sir, to the conversations following the meeting of May 5th or 6th in Mr. Cohen's office, immediately following that, can you tell us what was said between you and Mr. Lassoff?

A Mr. Lassoff wanted to know -- asked me, "When is the buying power coming into the stock, when is the stock going to move up higher, how come I don't see your buying power in the stock?"

And I said to him, "Harold, I am going to get you a big order so you will see that I have buying power for the stock."

Q Now, directing your attention to Friday, May 7th, did you have a conversation on that day with Mr. Lassoff with reference to an order that had come in to Pressman Frohlich?

A Yes, sir.

Q And what conversation did you have? What was the conversation?

A I called Mr. Lassoff and I said --

MR. GOULD: Can we get whether it was by telephone or in person?

THE COURT: He said "called," that "I called Mr. Lassoff."

MR. GOULD: Sorry. I didn't hear that.

A I called Mr. Lassoff and I asked Mr. Lassoff if he would like a 10,000-share buy order from a man named Erwin Layne who was one of my partners in the deal. He said, "Sure."

I told Mr. Layne to call Mr. Lassoff, and Mr. Layne was going to buy the stock in either his name or his father's name. And Mr. Lassoff called me back and said, "Michael, what kind of order is this?"

And I said, "Don't worry, you will get paid for the stock because we'll sell enough on the side to get the money to pay for it."

Mr. Lassoff called me back about a half hour later and he said, "They won't accept the order and my boss" --

Q Okay, Mr. Hellerman. Before he called you back, did you have any conversation with Mr. Layne?

A Yes, sir.

Q And what was that conversation?

A I told Mr. Layne to buy the stock and we treated it like a wooden ticket.

Q What is a wooden picket?

A A wooden ticket is where you place an order and don't pay for it unless you sell enough stock on the other side to have the money to pay for the stock. If we didn't have enough for the stock, we would stick the firm, we didn't pay for it.

Q Tell us the conversation you had with Mr. Lassoff after you told Mr. Layne to place the wooden ticket?

A Mr. Lassoff called me back and said, "I can't buy the stock and Mr. Frohlich knows you are in a deal."

And I said, "Harold, how could Frohlich know I'm in a deal. I told you if you told anybody that I'm in a deal there is no deal, they will run to the SEC and we will all lose our money. I told you -- how does Frohlich know I'm in a deal?"

He said, "I don't know." He just started to stutter over the phone.

I said, "Harold, you're the only one that can tell him."

He said, "I didn't tell him. He knows you are in a deal and he is going to call Sam Weisman up and now he is going to call Cohen up and I don't know what he is going to do."

So I hung on. Mr. Lassoff and I talked to Mr. Weisman. I told Mr. Weisman, "Maybe somebody from Pressman, Frohlich is going to call you and see what you can do to straighten it out."

I don't know -- about 15 minutes or a half hour later Sam called me and said Mr. Frohlich called him from Pressman, Frohlich and had wanted to know from Mr. Weisman -- this is Mr. Weisman telling me what the conversation he had with Mr. Frohlich -- wanted to know if Weisman knew I was under indictment and wanted to know if Mr. Weisman knew I was a swindler and if he knew who I was.

I asked Mr. Weisman, "What did you say to Mr. Frohlich?"

And he said, "I told him that I knew you were under indictment."

I told him that Frohlich had no right to tell

him what stock to buy as long as he paid for the stock; that they couldn't tell him what stock to buy, he could do whatever he wanted and that didn't prohibit me from advising him on what to do. So --

Q Did you -- Go ahead.

A So Mr. Weisman said, "I think I straightened it out with Frohlich and I did you a good turn, Michael, and make sure I make money in the stock. I just don't want to make a little bit, make sure I make money."

So I thanked Sam.

Q Did you have a subsequent conversation with Mr. Lassoff?

A Yes, sir. Lassoff told me that Frohlich was not going to call Marty Cohen -- Excuse me; Mr. Weisman also told me that Mr. Frohlich had asked him for a letter that he bought the stock unsolicited, that Mr. Lassoff didn't solicit him to buy the 3000 shares.

Then I had a conversation with Mr. Lassoff and Mr. Lassoff told me now he is going to call Mr. Cohen, meaning Mr. Frohlich is going to call Mr. Cohen.

A short time after Mr. Lassoff called me back and said, "Marty Cohen wants out of the deal, he wants out of the stock, he doesn't want to hold the stock and he wants to sell it."

I said, "You have got to hold him until next Friday. I can't make a move now, Harold, you've got to hold him into next Friday."

Harold said, "All right, I'll hold him into next Friday."

Q Following May 7th, the day about which you just testified, did you have conversations over the weekend on May 8th and 9th with Mr. Lassoff?

A Yes, I did, sir.

Q Will you tell us about those telephone conversations?

A Mr. Lassoff had my home telephone number and he called me --

MR. GOULD: If your Honor please, can't we just get the conversations?

THE COURT: We are not interested in whether he had his home telephone number or not.

Q Did you call Lassoff or did Lassoff call you?

A Lassoff called me.

Q Where were you?

A At home.

Q All right.

What was the conversation you had with him?

A Mr. Lassoff was very concerned what was going

to happen with the stock, was Mr. Cohen going to lose his money, was the stock going to go up. He had counted on the profit that I had promised him, 25 per cent, and he was very nervous --

MR. WALKER: Your Honor, excuse me. There is an awful lot of chatter going on here.

THE COURT: Keep it down.

MR. GOULD: Very sorry, your Honor, about the chatter, but it is essential that Mr. Carroll and I confer from time to time.

THE COURT: Not as frequently as you are really. Go ahead.

Q Would you go forward, Mr. Hellerman?

A Yes, sir. Mr. Lassoff asked me when did I think -- I was sure I was going to get Cohen out of the stock because he's a good customer of his. I don't know what's going to happen, I told Harold, whether Frohlich is going to the SEC, "Don't panic now. Wait until you get to the office on Monday morning, find out what Frohlich is going to do, find out about the SEC and we'll make plans what we're going to do."

And that is the gist of the conversation I had with him over the weekend.

Q Did you have a further conversation with him

after the weekend?

A Yes, sir.

Q Was that a telephone conversation or a meeting?

A The first telephone conversation.

Q What was the telephone conversation?

A I told -- he was nervous, Mr. Lassoff was nervous. He said, "I want to see you."

I said, "All right, I'll see you."

I don't remember if it was Monday. Tuesday, Wednesday, what day of the next week, we made an appointment and we met at Al Cooper's in New York.

Q Who was present?

A Mrs. Lassoff, Mr. Lassoff's wife, Mr. Lassoff, Murray Taylor and myself.

Q And where is Al Cooper's? What is it?

A It's a restaurant in the 30's, in the Garment Center in New York.

Q All right. And what time of day was it when you got there?

A Dinner.

Q And what was the conversation at that time?

A Mrs. Lassoff -- we sat a booth having drinks first on the right-hand side when you come into Al Cooper's and Mrs. Lassoff was concerned that Harold was very upset

all weekend and she says, "He's so nervous, Michael, can he get in trouble for this," or "What's going to happen with this, he counted on the money."

With one breath she was telling me -- I said, "Mrs. Lassoff, in one breath your're worried about him getting in trouble and in one breath you're telling me he needs the money."

She said, "Well, he had some real estate losses and he had done bad in some real estate deals and was counting on the money, but didn't want to get in trouble."

Mr. Lassoff said, "Maybe I was too greedy."

I said, "You know, Harold, we wouldn't be in this aggravation" -- this is me talking to Mr. Lassoff now-- "We wouldn't have this problem now if you didn't tell Frohlich."

And he said, "I didn't tell him." And his voice was shaking all the time, each conversation admitting more he told Frohlich, although he admitted denying it --

THE COURT: Wait.

Q What did he say, Mr. Hellerman?

THE COURT: So far you did not say anything to the effect that Lassoff said he told Frohlich.

THE WITNESS: He denied he told Frohlich.

THE COURT: All right. So he denied he told

Frohlich.

THE WITNESS: Right. I said, "I wouldn't be in this position if Marty Cohen hadn't bought the stock, and what does Marty Cohen want to sell the stock. That's not his agreement. The agreement I made with you, Harold, is he hold the stock for 60 to 90 days and he can't turn around and sell the stock in a week. Sam Weisman guaranteed because of you he would stay in the deal. Now we have to have an agreement with Sam Weisman and you and we have got to get it straightened out."

Q Following that meeting, did you have a further conversation with Mr. Weisman or Mr. Lassoff?

A Yes, sir.

Q A telephone conversation?

A Yes, sir.

Q Will you tell us what you said to either Mr. Weissman or Mr. Lassoff at that time?

A I arranged a meeting for that Sunday at my home for Mr. Lassoff and Mr. Weissman to come to my house for brunch that Sunday morning.

Q Directing your attention to May 16th, Sunday, 1971, did you have a meeting at that time?

A Yes, sir.

Q Who was present?

A Mr. Stephen Zardus, who was president of Interstate Equities, the underwriter, Mr. Murray Taylor, Mr. Sam Weisman, Mr. Harold Lassoff, myself, and my wife who served us brunch.

Q Where was the meeting?

A At my house in Bayside, Long Island.

Q What time did the meeting begin?

A It was brunch. I would imagine around 10.30 or 11 o'clock. I don't know exactly.

Q How did the meeting open?

A We sat down and I turned to Mr. Sam Weisman and I said, "Sam, I had to call this meeting, I'm sorry to get you here on a Sunday, but you guaranteed Lassoff -- Harold."

I said, "I have had deals with you before. If Cohen sells the stock and breaks the stock I am dead, I can't put other people into the stock now, Sam, because I don't know -- I can't put good money into the deal again, I don't know what Frohlich is going to do."

I told Sam at the table that it was my opinion -- and Harold could deny it all he wants -- that the only way Frohlich found out I was in the deal was through Lassoff, and I said, "Either you're going to buy the 3000 shares, Sam, or you're going to keep Cohen in the deal," I said, "because that's what you guaranteed to us."

And Steve Zardus turned to Sam -- they were sitting across from each other -- and he said, "Sam, I know how Michael works, you know how Michael works," he said, "We all got to try to pull together here and save the deal or we're all going to lose of money."

Sam says, "What do you want me to do, "Mike?"

I said, "I want you to keep Cohen in the deal, Sam, I don't care how you keep him in, I don't care what you tell him, keep him in the deal and if he wants to go out of the deal and you can't keep him in it's your obligation to go out and buy the 3000 shares of stock."

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Q Was there any conversation concerning the Frohlich problem, the fact that Frohlich might go to the SEC?

A Yes, sir. I was very concerned about Frohlich going to the SEC. No one knew if he had at that point, no one knew --

MR. HAWKE: Objection, your Honor, move to strike it.

A Mr. Lassoff didn't know --

Q Did Mr. Lassoff say that he had gone to the SEC?

A Mr. Lassoff, when he was asked a question by me and Mr. Zardus, said he didn't know if Mr. Frohlich had gone to the SEC.

Sam said, "What do you want me to do?"

I said, "I want you to keep Cohen in the deal and I think you should go see him."

I told Mr. Lassoff to call Mr. Cohen. Mr. Lassoff went in my kitchen -- it was next to the dining room -- and called Mr. Cohen. From the conversation that I heard on Mr. Lassoff's side Mr. Cohen didn't want to see him.

THE COURT: Wait, wait, wait.

Q Who was present? All I want you to do is tell us what you heard Lassoff say, not what --

THE COURT: What you think Cohen said.

A "I want you to see Mr. Weisman. It's important that you see Mr. Weisman. We won't take a long time, won't take up a lot of your time."

Q Was there any conversation concerning what could be done to solve the Frohlich problem?

MR. HAWKE: Object to the leading, your Honor.

THE COURT: Sustained. Just ask him to recount what happened.

Q Was there any further conversation concerning Frohlich?

A Yes, sir.

Q What?

A It was suggested that Mr. Frohlich -- maybe Mr. Frohlich be given some stock to pay him off not to go to the SEC, and I said to the whole table, "You could try it, but it's not going to work, so just forget the idea."

MR. HAWKE: I move to strike. He hasn't identified who said this, your Honor.

THE COURT: Do you know who said it?

Q Do you recall who made the suggestion?

A It might have been Mr. Zandus or Mr. Weisman. I don't remember who.

MR. GOULD: I move to strike that out, as to who

it might have been.

THE COURT: No, I will let it stand.

MR. GOULD: Your Honor, --

THE COURT: I am sorry, Mr. Gould, but that is the best he can tell you. There were gentlemen sitting around a table and he is telling what he heard. He is not sure which one said it.

MR. GOULD: If your Honor pleases, if he doesn't know who said it, then he says it might have been Zardus, it might have been Weisman, it might have been Lassoff, it might have been he himself.

THE COURT: He didnt say he said it. He said he heard somebody else say it.

MR. GOULD: Then it could have been anyone else who was there and it's unfair to the defendant Weisman.

MR. WALKER: Objection to this comment, your Honor.

THE COURT: The objection is overruled.

Q Mr. Hellerman, was Mr. Weisman present when it was said?

A Yes, he was, sir.

MR. GOULD: That doesn't mean anything.

THE COURT: Mr. Gould, let's proceed.

Go ahead.

Q What did Mr. Weisman and Mr. Lassoff do following the phone conversation as to which you overheard the Lassoff half?

A They went to see Mr. Cohen.

Q Some time thereafter did you receive a telephone call?

A Yes, I did, sir.

Q Who was the call from?

A Sam Weisman.

Q How long after they had left did you receive this call?

A About an hour, an hour and a half.

Q What was the conversation between you and Mr. Weisman at that time?

A Mr. Weisman told me he was calling me from Cohen's house and that he had convinced Mr. Cohen to stay in the deal for two to three weeks and we had to work fast. Whatever we were going to do, we had to work fast, but the immediate pressure was off because he had convinced him to stay in the deal.

Q Mr. Hellerman, following the May 16th meeting was additional purchasing put into the stock?

MR. HAWKE: Object to the form of that question.

THE COURT: Overruled.

A Very little.

Q Did there come a time when you had a further conversation with Mr. Weisman?

A Yes, sir.

Q What was that conversation?

A When the -- I told -- the Automated deal had collapsed and Mr. Weisman wanted --

MR. GOULD: I move to strike this answer.

THE COURT: Yes.

Q Approximately when?

A Towards the end of the deal, when the deal was over.

THE COURT: When? We don't know when the deal was over.

A When the SEC had come in to investigate it and --

THE COURT: When was that?

THE WITNESS: I don't know.

Q Directing your attention to mid-June or thereabouts, would that refresh your recollection?

A If that's the date the SEC -- if that's the time the SEC investigated. I don't remember the exact date.

Q What was the conversation subsequent to the May 16th meeting that you had with Mr. Weisman?

MR. GOULD: Can we get where, who was present,

whether it was on the telephone?

Q Would you tell us how many people were present?

A Mr. Weisman and I.

Q Where was this conversation?

A Mr. Weisman's office.

Q What was the conversation at that time?

A Mr. Weisman wanted me to make -- he hadn't sold his stock and he wanted me to make him whole for the whole purchase price that he had bought the stock for. He had half the cash, but he wanted me to make him whole.

I told Mr. Weisman "I'll make you whole, but I need the cash back to get you a full check for the whole price."

So Mr. Weisman said, "All right," and he took me down to his bank, Manufacturers Hanover Trust. I waited outside. Mr. Weisman went into the vault. He came out of the vault and he handed me an envelope with the cash in it. I never gave him a check back for the total amount of the purchase price.

Q Was any of the money subsequently repaid?

A Yes, the approximate $7000 that I took back from him, when we settled our money matter in the Reno deal, he added that 7000 on to the settlement price.

MR. WALKER: I have no further questions for this

witness, your Honor.

* * *

* * *

Q Now, sir, start in June or start right after the breakfast meeting and tell us what you can about your conversations with Mr. Weisman about his being made whole.

A I can't remember the exact days because there were many conversations, but when it came down --

Q The substance of them.

A It came down to the conversation and I told Mr. Weisman that yes, I would make him whole, and I asked him -- in order to get a check from somebody downtown I had to get the cash back to give them the cash to get a check for the total amount that he had invested in the deal and Mr. Weisman went to the Manufacturers Hanover Trust --

Q Now wait, wait, wait, wait. I just asked you about the conversation.

You do remember a conversation after the breakfast meeting when in substance you told Mr. Weisman that you had somebody to buy his stock and make him whole?

A Not to buy his stock, sir. They would lend me the money to give him the money to pay him back.

Q Pay him back for the stock?

A Correct.

Q In other words, about --

THE COURT: Wait, wait.

Weisman was to lend you the money so you could pay him back for the stock?

THE WITNESS: No, sir. I had given Mr. Weisman $7000 in cash and Mr. Weisman wanted to be made whole. Now he was out approximately $7000, sir. So I told Mr. Weisman in order to get his check for approximately thirteen-

eight, or whatever the figure was, I would bring him a check, if he would give me back the cash that I gave him and he would give --

MR. GOULD: If your Honor will bear with me I will get it.

THE COURT: He used the word lend and I didn't quite understand.

THE WITNESS: The other person would lend me the money to pay Weisman the $13,000.

MR. GOULD: If your Honor will indulge me, I think I can get it out clearly.

Q This was about September, was it not?

A I don't know the exact date.

Q You have no recollection?

A Of the time. It was after the deal was over.

Q You remember the meeting in May, the breakfast meeting, you remember who said what to whom, don't you?

A That was something I was very concerned about. I wanted Cohen kept in the stock.

Q Mr. Hellerman, you do remember that?

A Yes, sir.

Q The meeting in May, you remember the conversations, don't you?

A Yes, sir.

Q You have testified to them here. Now I want this meeting as to which you say you don't even know what month it was in.

A No, sir.

Q Do you remember who said what to whom in that meeting?

A In words or substance, yes, sir.

Q Am I not right, sir, that In that meeting you told Weisman that you had arranged with someone to make him whole for the $14,000?

A Correct.

Q And you said that in order to do that you needed a check for $82 for transfer taxes, correct? Does that refresh your recollection?

A Yes, sir, but --

Q You needed the check for $82 in order to pay the transfer taxes on the stock that Mr. Weisman had?

A Correct, sir.

Q Because you were going to transfer that stock to somebody else? Just yes or no.

A Yes, sir.

Q And he gave you a check for $82, did he not?

A I think he made a check out to Murray Taylor.

Q At your request?

A Yes, sir.

Q You asked him to make it to Murray Taylor, correct?

A That's correct, sir.

Q This document which I show you, which has been marked as Defendant Weisman's Exhibit C, is the check that you got?

A That's correct, sir.

(Defendant Weisman's Exhibit C was marked for identification.)

xx Q This check is dated, is it not, September 24, 1971?

A Yes, it is, sir.

Q Did he not give you that check on the very day in which you came to him and said to him, "I have a buyer to take you out of your stock, all I need is a check for the transfer taxes"?

A No, sir. We had negotiated before. On that day I asked him for that check to make sure that he was going to go through and give me back the $7000.

Q Just bear with me, Mr. Hellerman.

A Yes, sir.

Q On this day you had led Mr. Weisman to believe that you had a buyer for the stock?

A That he would be made whole --

Q Just listen to me for a minute.

THE COURT: Don't finish the question for Mr. Gould. He knows how to finish his questions.

Q You have led Mr. Weisman to believe that you had a buyer for the stock and he was going to be made whole on the transaction? Just yes or no.

A I can't answer that yes or no. I would be glad to explain.

Q I have not stated correctly what had happened?

A No, sir.

Q Now you tell us what you told Weisman before you got the $82 check on September 24.

MR. GOULD: I offer the check in evidence. I am sorry.

A I told Mr. Weisman --

THE COURT: Hold it.

May I have a clarification of your question, Mr. Gould. What he said to Weisman on September 24 or prior to September 24?

MR. GOULD: I will withdraw the question.

Thank you, your Honor. I accept the suggestion, because it would be confusing.

(Defendant Weisman's Exhibit C was received

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in evidence.)

Q Mr. Hellerman, between May 16, 1971 and September 24, 1971 you had a number of meetings with Mr. Weisman, did you not?

A Yes, sir.

Q And some of them Mr. Murray Taylor was present?

A Ys, sir.

Q And Murray Taylor was your your confederate in this transaction?

A Yes, sir.

Q In those meetings was not the substance of your discussion that Mr. Weisman wanted to get his money back?

A Not in all of them, no, sir.

Q That was not?

A You said from May 16 on and that's not so, sir.

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Q During the summer did you have some conversations with Mr. Weisman in which Mr. Weisman said, "You get my money back for me"?

A Yes, sir.

Q So on or about September 24, 1971 you went to Weisman and you told him you had somebody who was going to give him his money back?

A No, I did not tell him that, no, sir.

Q You asked him to pay transfer taxes on the stock?

A Would you like me to explain it? I will explain to you why, sir.

Q Did you not tell him in words or substance that you had a buyer for the stock?

A No, sir.

Q What did you tell him?

A I told him --

Q When you got the check for $82.

A I told Mr. Weisman that I was going to borrow the money from somebody downtown and in order to get the money from him I was going to let him hold his stock, the stock that Mr. Weisman had, and I said, "I need money to transfer the stock and I don't have the money to transfer the stock," and Mr. Weisman said -- took out his checkbook and wrote out the check for $82, whatever.

I said, "Make it out to Murray Taylor," and Murray Taylor went down and cashed the check.

Q In other words, what you wanted Weisman to do was to give you back the stock in deliverable form, correct?

A Sure. It had to be, yes, sir.

Q With the stamps on it?

A Mr. Weisman wouldn't transfer it.

Q You got the $82 for transfer tax stamps, didn't you?

A That's correct, sir.

Q But you didn't use the $82 for transfer tax stamps, Mr. Taylor put it in his own account, didn't he?

A Or cashed the check, I believe, sir.

Q Just cashed it. You never bought a stamp, did you?

A No, sir.

Q And you didn't have anybody who was going to lend you the money, did you?

A No, sir.

Q It was just a trick,wasn't it?

A To get the $7,000, correct, sir.

Q That's right, and you started off to trick him into giving you back the $7,000 first by getting the check

for 82 bucks?

A That's correct, sir.

Q That was just a step in the trick?

A That's correct, sir.

Q Then you went to him, after you had gotten his $82, which Mr. Taylor cashed or put in his bank, and you said that he would have a check within a few days for the whole $14,000?

A That's correct, sir.

Q And that was a lie, wasn't it?

A Yes, it was, sir.

Q You hadn't the faintest intention of getting it?

A That's correct, sir.

Q Then you went to him and you told him, on September 27, 1971, say three or four days after the check, correct, you went to him and you told him that if he would give you back the cash which he had held in his safe deposit box -- remember that -- you said to him you would get a bank check from a downtown bank in the Wall Street area? Isn't that what you said to him?

A In words or substance, yes.

Q Those were the exact words, weren't they?

A I don't know if they were the exact words. I know I said a check. I don't know if I said a bank check,

Mr. Gould, but it makes no difference.

Q Don't you remember saying, "It will be a bank check and it is a bank in the Wall Street area and I will come back the same day with that check"? You don't remember that?

A Yes, I do, Mr. Gould. I said I don't remember if I said bank check or regular check or certified check, but yes, you are correct.

Q Doesn't that refresh your recollection that the exact words that you used were "If you give me the $7,937 which had been written down on a piece of paper, Joel Goldfarb and I will get you a bank check for $14,000 from a downtown bank in the Wall Street area and we will be back this afternoon"?

A That is a lie because --

THE COURT: Wait a minute.

A That's not true.

THE COURT: Did you say that?

THE WITNESS: No, sir.

Q You didn't say that?

A No, sir.

Q What part of it is not accurate, sir?

A Joel Goldfarb.

Q That is not in it?

A No, sir.

Q You didn't mention Joel Goldfarb?

A No, sir.

Q We will come back to that, sir.

Joel Goldfarb is your brother-in-law?

A Yes, he is, sir.

Q So all that happened on that day that you remember is that you did promise him a check for $14,000?

A Yes, sir.

Q Then Mr. Weisman said to you, "Well, if you have the $14,000, why do you need the $6,937?", didn't he?

A I don't remember, but --

Q But he didn't want to give you the money until he got the check, right?

A He gave me the money before he got the check.

Q He did, but at first he didn't want to do that?

A I don't remember an argument over it.

Q You don't remember that. All right.

At any rate, you told him you needed the cash in order to get the check.

A That's correct, sir.

Q Then you and he went over to the Manufacturers Trust Company at 43rd Street and Fifth Avenue, correct?

A Correct.

Q He went in and he got $6,937 and he gave it to you, right?

A Correct.

Q Then he said something to you, didn't he, about the $6,937?

A I don't remember.

Q What did he say, Just "Here it is, Mike, old pal"?

A "I'll see you later with the check," I said, "Sam, I'll see you later with the check," meaning the $14,000 check. "If I don't get it today I'll call you or bring it tomorrow," some conversation like that.

Q Actually you had no intention of giving him a check, did you?

A No, I did not.

Q You had no place to get a check from?

A That is correct.

Q It was just a trick to get the money back from him?

A That is correct.

Q You wanted to cheat him, right?

A No.

Q No?

A No.

Q You think you told him the truth about the money?

A No.

Q Then you lied to get the money back from him?

A Correct.

Q Didn't you say to him there at the bank, "Positively you will have the check before the end of the day"?

A I don't remember the exact words. My recollection is "If you don't have it by the end of the day I'll cabl you and bring it tomorrow," or something like that.

Q Then, sir, do you remember going back to Mr. Weisman's office at 5:00 p.m. on that day and tellin Mr. Weisman -- you showed him the cash, you still had the cash, remember that?

A No.

Q You don't remember it at all?

A No.

Q But you did tell him that you got to the bank too late to get the check something like that?

A I don't remember what excuse I gave him.

Q You gave him some cock-and-bull story for not having the check?

A Yes, sir.

Q And you asked him if he would let you keep the money overnight, isn't that right?

A I don't remember.

Q But you did keep the money overnight, didn't you?

A Kept the money till I paid it back on the settlement.

Q Then you didn't go back the next day and give him a check, did you?

A I already said so, I didn't.

Q Did you speak to Mr. Weisman about it after that?

A Yes.

Q What conversation did you have with him?

A I told Mr. Weisman that I felt that I was entitled to the $7,000 because he had caused the deal to go down the drain because he had guaranteed that Mr. Cohen and Mr. Lassoff --

Q Just tell us what you told him.

A That's what I told Mr. Weisman, sir.

Q That's what you told him?

A Yes, sir, that he had guaranteed that Mr. Lassoff would play straight in the deal, and I had told -- I told Mr. Weisman I had told Mr. Lassoff and Mr. Weisman -- I had told Mr. Weisman that they couldn't mention my name,

Mr. Lassoff couldn't mention my name, because I was very bad with the SEC and the deal would go down the drain.

Q When did you tell that to Mr. Weisman?

MR. WALKER: Objection, your Honor. May he finish the answer?

The question was "What did you tell him?"

MR. GOULD: I thought he paused. When he pauses I don't know whether it's for respiration or inspiration. I thought he paused.

THE COURT: Go ahead, put a question.

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Q When did you tell Mr. Weisman that he must never mention your name? That is all I want to know.

A I told Mr. Weisman that Mr. Lassoff should never mention my name in a deal when Mr. Weisman called me and told me -- asked me --

THE COURT: Wait. Now you are explaining something. You didn't say this in these words to Mr. Weisman.

THE WITNESS: What?

THE COURT: You are explaining what you are talking about. That is perfectly obvious.

MR. WALKER: He's taking him back.

MR. GOULD: Maybe I am responsible for the confusion. I think I am. I interrupted him, apparently.

THE COURT: Mr. Gould, please stop. I want to know the date of the conversation that you say you had with Mr. Weisman after you got the $7,000 from him in which you said to Mr. Weisman that you didn't feel he was entitled to the $7,000 because he had guaranteed the last Cohen deal and, therefore, because of that you all got in trouble and the $7,000 really belonged to you.

When did you have that conversation with him?

THE WITNESS: After the end of September, sometime after that, I didn't give him his check, your

Honor.

MR. GOULD: Maybe I can sharpen up the date, your Honor, with a suggestion.

Q Do you remember a conversation with Mr.Weisman on the day before Yom Kippur, the Yom Kippur holyday in 1971?

A I saw Mr. Weisman last -- I can't pin --

Q Don't you remember that conversation?

A No, I don't, sir.

Q No recollection of that?

A No, sir.

Q Do you remember saying to him then something about how you were going to spend Yom Kippur?

A It's very possible, Mr. Gould. I don't remember the con-ersation.

Q I am trying to refresh your recollection.

Did you not tell Mr. Weisman that you were going to spend the next day, Yom Kippur, in fasting and in prayer and in repentance for the things that you had done in your life and that you were making him a solemn promise on the eve of this holyday that he would very shortly receive the entire amount that he had paid for the stock? Nothing like that?

A I don't remember that, Mr. Gould.

Q All right.

You say it didn't happen, or that you just don't remember?

A I'm not as eloquent as that, and if I said anything about it, which I don't remember, those are not the words.

Q Well, at any rate, in November of 1971 --

MR. GOULD: Oh, let me withdraw that question.

Q By the way, during this period of up to October 1971 you owed Mr. Weisman other monies, did you not?

A Yes, sir.

Q A considerable amount?

A Yes, sir.

Q And you were making payments on those other monies?

A Again I don't know -- if you say it, I take your word. I don't know when the payments started.

Q No, I want your testimony, not mine, sir.

A Yes, I made payments. I don't know the dates, but I guess I made the payments.

Q Actually, it was your brother-in-law, Mr. Joel Goldfarb, who was making the payments?

A Yes, sir.

Q And your mother?

A Yes, sir.

Q You didn't make any, did you? Your relatives were paying Mr. Weisman money that you people owed him?

A That I owed him.

Q You owed him. And they were paying him for you?

A Yes, sir.

Q And that had nothing to do with this Automated stock, it was a completely different matter, wasn't it?

A That was the Reno deal, yes, sir.

Q Now, let's get to November 1971.

Now, you tell us that before November you had conversations with Mr. Weisman in which you told him that now that you had the $7,000 back from him he wasn't going to get any more money from you, because really the $7,000 belonged to you because he, or his man Lassoff, had blown the deal?

A That's correct, sir.

Q That is what you told him?

A That's correct, sir.

Q So he knew certainly by the beginning of November that there was no chance of getting back the $14,000?

A No, sir, he didn't know that.

Q Didn't you tell him that?

A There was an intermingling of the two deals, the Reno deal and that deal, and we were going to straighten out -- finally straighten out that deal; we would adjust it. We had some conversations to that effect.

Q Didn't you tell him that you had your $7,000 back and you weren't going to give him anything more on the $14,000 thing because he and his fellow Lassoff had blown the deal and you didn't owe him a dime?

A On the Automated itself?

Q That's right.

A Yes.

Q So that he knew, as far as the Automated stock was concerned, he was never going to get a dime from it?

A Unless we straightened out and settled the other deal, then we would compromise the whole thing.

Q Okay.

Now, in November you had a conversation with Mr. Weisman, did you not, in which you mentioned a gentleman named Martin Roth?

A Mr. Weisman and Marty Roth. He mentioned him a lot of times. I can't isolate that conversation.

Q Did you not tell Mr. Weisman on November 15, 1971 that a Mr. Martin Roth had made arrangements to sell

the Automated stock through a stock exchange firm and that you and Roth -- and Roth was your lawyer, wasn't he, or your partner in this --

A One of them.

Q Yes, one of them.

They made arrangements to sell the stock through a stock exchange firm and that you would give him Roth's check for $14,000?

A You say in November, sir?

Q Yes, in November.

A That is not so, sir.

Q Not so.

Well now, in November, on November 15, 1971, you did give Mr. Weisman this check for $13,900, which has been marked as Weisman's EXhibit D for identification.

(Defendant Weisman's Exhibit D was marked for identification.)

Q Just look at the front for the moment, Mr. Hellerman. That is a check payable to your order, right?

A Correct.

Q And you gave it to Weisman?

A Correct.

Q And then Weisman -- you endorsed it to Mr. Weisman, Mr. Weisman put it in the bank?

A Correct.

Q And it bounced?

A Correct.

Q Why did it bounce, Mr. Hellerman, do you know?

A I guess there wasn't enough money in there to cover it.

Q Is it possible that there was no such account, Mr. Hellerman?

A I don't know. If Mr. Roth hadn't an account I don't think he would have given me a check on an account he didn't have.

Q You didn't know this was a bad check when you gave it to Mr. Weisman?

A I knew there wasn't enough funds to cover it.

Q So you knew you were giving Weisman a bum check, didn't you?

A The check in itself, yes.

Q What did you give it to him for if you knew it was going to bounce?

A Because we were negotiating on a settlement in the other venture and if we had made that then maybe the check would have been made good.

Q Maybe it would have been made good?

A Correct.

Q Did you tell Mr. Weisman when you gave him this bum check, which you knew was a bum check, for $13,900, did you tell him, "Maybe it will be good, maybe it won't"?

A No.

Q You told him it was a good check, didn't you?

A I just gave it to him. We were negotiating another settlement.

MR. GOULD: I offer it in evidence.

MR. WALKER: No objection.

(Defendant Weisman's Exhibit D for identification was received in evidence.)

Q The Martin Roth whose signature appears on this check,we have it clear, he was your confederate in this transaction?

A He was an attorney like Sam. He did a lot of deals for me.

Q Did deals for you?

A Right.

Q He gave you this check because you asked him to give you this check?

A Correct.

Q Did he tell you he didn't have an account in the bank?

A I don't remember that, sir, no.

MR. GOULD: Ladies and gentlemen of the jury, here is the check we are talking about, and if you look at it you will see that it was returned to Mr. Weisman's bank by the First National City Bank with the notation, "Account closed."

Q What did you expect to get out of giving him this bum check?

A Getting a settlement -- if I enticed him with money back from Automated I would get a prompt settlement, rather than the figures Mr. Weisman gave me on the Reno deal.

Q Now, Mr. Hellerman, when you gave him this check, you wanted him to think that he was being made whole on Automated with this check; correct?

A Correct.

Q And you hoped that in the time it would take between the delivery of the chekc to him and the time that it bounced as you knw it would -- correct? You knew it would bounce?

A Correct.

Q -- that in that time you could settle something else?

A Correct.

Q All right, thank you.

Now, before you gave him this check that bounced, actually you gave him an earlier check, did you not?

A It's possible.

Q And he returned it to you because he said he didn't want to take a corporate check payable to him?

A It's possible. I don't remember the conversation.

Q You don't remember?

A It's possible.

Q But it was all a scheme that you cooked up, wasn't it?

A I already testified to that, yes.

Q But you don't remember the details of the scheme, do you?

A I just testified I don't remember the details of the scheme. I just told you it's possible.

Q But the details that you first gave him a corporate check payable to him and he refused to take it, you do not remember?

A I don't remember what check --

Q I see, but you do remember now stiffing him with this one, Weisman's Exhibit D, for $13,900 for the reasons you described?

A I already said that.

Q This was in November?

A Yes, sir.

Q By this time Automated is dead, isn't it?

A Yes, sir.

Q Do you remember getting in touch with Mr. Weisman after you gave him this check -- and,by the way,you gave it to him, didn't you, personally?

A I think so. I don't remember.

Q Do you remember calling him on the telephone and asking him to hold the check for a little while because you needed some documents to effect a stock transfer in Automated?

A I don't remember, sir. It's possible. I don't remember.

Q Possible.

And that Weisman did agree to hold it for awhile so that you could "clear your documents on Automated"? Do you remember that?

A No, I don't.

MR. GOULD: May I have your Honor's permission to point out to the jury that while the check is dated November 15th, on the reverse the date of deposit in the bank is the 24th.

You will see that on here, if you want.

Q So nine days elapsed between the time you gave this bum check to Weisman and the time he put it in the bank; right?

A Right.

Q You got a couple of weeks out of it, didn't you?

A If that was the time.

Q What were you trying to buy time for? Why did you want Mr. Weisman --

A To get a proper settlement on the Reno money, a proper settlement.

Q That's all you had in mind?

A Yes, sir.

Q You wanted --

A That I remember.

Q Now, actually you didn't make a settlement with him on your obligation until -- oh, excuse me, you had made a settlement agreement with him, hadn't you?

A Correct.

Q A written agreement?

A Correct.

Q Back in March of 1971?

A Correct.

Q On March 30th, 1971 the fact is that he had gotten a judgment against you; correct?

A I don't know the exact date of it, but go ahead.

MR. GOULD: Excuse me, let me take this out.

Would you be good enough to mark that E for identification.

(Defendant Weisman's Exhibit E was marked for identification.)

xx Q Now, sir, would you be good enough to look at this document which has been marked as Defendant Weisman's Exhibit E for identification? And we will start with the signature page.

That is your signature on it?

A Yes, sir.

Q This is a stipulation or agreement that you entered into on March 30th, 1971; correct?

A Correct.

Q And does this refresh your recollection that Mr. Weisman prior thereto had obtained a judgment against you?

A I know he had a judgment against me. I didn't know the date of the judgment.

Q That's right, and that you had not paid the judgment; correct?

A Correct.

Q And that supplementary proceedings had been instituted to enforce the judgment; correct?

A I don't know --

Q And you were in default; correct?

A Yes, sir.

Q And so you agreed that on the signing of the agreement -- and this is back in March, this is before you approached him on Automated; right?

A That's why he went into Automated.

Q Just answer me, Mr. Hellerman.

A I am.

Q You agreed that you were going to be paying him $3300 when you signed the agreement and you did pay him $3300 when you signed the agreement, and the $3300 you paid him came from the Automated stock, didn't it?

A Might have.

Q Well, it was the only place you were getting any money, wasn't it?

A I could have borrowed it from my mother or brother-in-law. I don't remember.

Q And your brother-in-law Joel Goldfarb agreed to pay $1100 on June 1st, 1971 and $1100 a month until $73,000 had been paid by Michael -- that's you -- right, and Joel? And so you owed him $73,000, didn't you?

A Correct.

Q And this agreement was supposed to help you pay it off; right? And this was part of the Reno deal, wasn't it, part of it?

A Yes, sir.

Q The Reno deal wasn't a stock deal, was it?

A It was supposed to be, sure.

Q But it never was?

A No, sir.

Q He just in effect lent you money and performed services; right?

A No, sir.

Q Oh?

A No, sir.

Q He had gotten a judgment against you for about $100,000; is that right?

A He had a summary judgment against me for $137,000 some-odd, $132,000.

Q All I want to get from you, Mr. Hellerman, is that you had a deal with Mr. Weisman back in March of 1971?

A That is correct, sir.

Q And you didn't keep the deal, did you?

A That -- no, sir.

Q Neither did your brother-in-law keep the deal?

A No, sir.

Q He didn't make the payments?

A No.

Q So now --

A Some of the payments were paid, sir.

Q I know, but he didn't do what he undertook to do in the agreement?

A No.

MR. GOULD: I offer the agreement of March 1971 between Hellerman et al and Weisman et al.

MR. WALKER: No objection.

(Defendant Weisman's Exhibit E was received in evidence.)

xx MR. GOULD: Your Honor, I don't propose to read this. If any of the jurors are interested in it, it is an agreement with certain exhibits which are kind of complicated.

Q Now, sir, the fact is that Mr. Goldfarb kept up the payments until you got the $7000 back; isn't that right?

A I kept up the payments.

Q You gave it to Mr. Goldfarb, right, and he paid it?

A No, I paid it.

Q You kept up the payments until you got the $7000?

A Approximately that time.

Q And then, having gotten $7000 back, you wanted to renegotiate this agreement: right?

A That is correct, sir.

Q And you gave him that bum check because you wanted to try to renegotiate the agreement while he was under the illusion that you were giving him back his $14,000?

A That's correct.

Q That was the trick. And then later on Mr. Weisman sued you again, did he not?

A There was proceedings, yes.

* * *

* * *

Q Now, sir, did you learn in March of 1972, at or

about the time of the commencement of this action, that Mr. Weisman had made a complaint against you to the office of the District Attorney of New York County?

A No, sir.

Q Did you never learn that?

A No, sir.

Q Are you telling us now, sir, that you have never heard before this that Weisman made a complaint to the District Attorney?

A That he made a complaint? No, sir.

Q Let me hear that answer again.

A That he made a complaint? No, sir.

Q What is bothering you, the word "complaint"?

A No, no.

Q You knew he went to the District Attorney, didn't you?

A No, I didn't. Mr. Weisman -- I had heard that he might go to the District Attorney, but I didn't know that he went.

Q Who told you he might go to the District Attorney?

A I don't remember if it was Herbert or Sam or Adler, his lawyer, one of them. I don't remember who.

Q You say that you don't know that he actually

went to the District Attorney?

A No, sir. I never was informed by the District Attorney or got any notification from them or anything else.

Q Didn't you ever see a written complaint that he filed against you with the District Attorney in New York County?

A No, sir.

Q Is that your testimony now under oath?

A Yes.

Q You never saw it?

A No, sir.

Q Did you ever hear about it?

A No, sir.

Q Until right now you are telling us you didn't know that there was a written complaint?

A That's the God's honest truth, sir.

Q Well, sir, on March 15, 1972 did you have a meeting at the office of your attorney with Mr. Weisman and his attorney, Mr. Benjamin Adler?

A I had a meeting there. I don't know if that's the exact date, but I will assume --

Q About March 15?

A I assume you know the date, yes.

Q What was the name of your attorney at that time?

A Ernie Schlacter.

Q Mr. Schlacter?

A Correct.

Q Didn't you attend a meeting at Mr. Schlacter's office on or about March 15 with Weisman and Adler?

A Yes, sir.

Q Who else was there?

A My mother.

Q Anybody else?

A Not that I can think of. I may be leaving somebody out, but the important people as the meeting was arranged was for Weisman, my mother, Mr. Adler, Mr. Schlacter, myself.

Q Didn't they tell you that they -- "they," Weisman or his lawyer -- that they had been to the District Attorney's office?

A No, sir.

Q No mention of District Attorney?

A No, sir.

Q What happened at that meeting, Mr. Hellerman?

A I brought my mother up so Mr. Weisman could explain to her why he was enforcing money that I owed when he said he wouldn't in previous years do that and I

wanted him to explain how he got his figures to my mother.

Mr. Weisman walked in very angry and he said, "I'm not explaining anything. I want my money, I want to know how I'm going to get it. I'm not explaining anything."

And he embarrrased me in front of my mother and he embarrassed my mother. So I got up and I cursed at Mr. Weisman and I think I told him I'm going to piss on his grave.

Q You said what?

A I'm going to piss on his grave.

Q You said that to him?

A Yes, sir. He got up and left and I got up and left.

Q He said what?

THE COURT: "He got up and left and I got up and left."

Q That was the end of it, you said "I'm going to piss on your gave," right?

A Yes, sir.

Q Why were you going to do that?

A It was an outburst of anguish because he embarrassed me in front of my mother.

Q So far, up to March 1972, in every transaction

that you had with Weisman you had gypped him, hadn't you?

A No, sir.

Q Did he gyp you in any transaction?

A Yes, sir.

Q Which one?

A The judgment that we are talking about and how he got it and what he did and everything else. That's how he cheated me.

Q You don't know anything about that judgment, do you?

A Who?

Q Do you know how he got the judgment?

A I heard, yes, sir.

Q You heard?

A Yes, sir.

Q Did you contest the judgment?

A You have to put up a bond?

Q Did you contest the judgment? Yes or no.

A No, sir.

Q Did you ever put in a single piece of paper saying that anything in the complaint on which he got the judgment was false?

A I don't think we answered. I think we settled it.

Q You let it go, didn't you?

A I think we settled it, right.

Q You did not contest the judgment that he got?

A Right. I think we settled it.

Q And that's where you say he gypped you?

A Excuse me, Mr. Gould. We answered the judgment. We answered -- there were papers filed to answer the summary judgment Mr. Weisman got.

Q There were?

A Yes, sir.

Q You did contest it?

A We did contest it.

Q And you lost?

A It was a summary judgment, sir.

Q And that's how he gypped you?

A And the figures and the debts and everything else.

Q But you lost in court, didn't you?

A Never got to court, never got to trial.

Q Anyway, he got a judgment, didn't he?

A He got a summary judgment, yes, sir.

Q You say that is where he gypped you. You gypped him on a few other things, didn't you?

A I so testified, yes, sir.

Q On the whole you gypped him a little more than he gypped you, isn't that right?

A In the amount of money, no, sir.

Q He never gave you a bum check, did he?

A No, sir.

Q He never got money from you by telling you a lie about how he was going to take it downtown and get it cashed, some baloney like that?

A No, sir.

Q That's where you gypped him?

A Yes, sir.

Q But you think on balance he gypped you more than you gypped him, is that it?

A In dollars and cents, yes, sir.

Q So right now as it stands you think Mr. Weisman is a bad man who gypped you on some things, right?

A How I feel?

Q Yes, how do you feel?

A I feel that he cheated me.

As far as a bad guy, I feel that after all the years of the dealings and everything else, it was my obligation to tell the United States Attorneys what he did, and I just -- they ask me the questions. I just answer the questions they ask me.

Q I didn't ask you that. I just want to know, as you sit here now you think he is a bad man who gypped you, right?

A I can't answer that yes or no.

Q Then don't.

After this meeting at your lawyer, Mr. Schlachter's office, when you said, "I will piss on your grave," after that did you learn about a conversation between your mother and Mr. Weisman?

A I don't know what you are referring to.

Q Didn't your mother tell you of a conversation that she had with Weisman?

A My mother --

Q She was there when you said, "I will piss on your

grave," wasn't she?

A Yes, sir, correct.

Q Didn't she tell you of a conversation that she had with Mr. Weisman?

A My mother had a lot of conversations with Mr. Weisman.

Q I just want one conversation.

A If you tell me the conversation --

THE COURT: Give him an idea what you are looking for.

Q In which she told you how she had apologized to Mr. Weisman for what you had said and done.

A I don't remember that, but --

THE COURT: Wait. You don't remember that, period. You are prolonging this examination longer than it should go by volunteering answers and putting in a lot of things which are not asked for.

Q Did you call Mr. Weisman to apologize?

A I don't remember.

Q Mr. Weisman had been a lifelong friend of your family, had he not?

A Yes, he had, sir.

Q Mr. Weisman had been one of your father's closest friends?

A Yes, sir.

Q Mr. Weisman you selected to preside over these memorial dinners that you gave to your father, right?

A Yes, sir.

Q And you knew that Mr. Weisman was a lawyer of advanced age in the City of New York, didn't you?

A Yes, sir.

Q You had come to him many times in your life for counsel and advice, isn't that true?

A Yes, sir.

Q You had borrowed money from him many times in your life?

A Yes, sir.

Q He had always given you what you asked for, had he not?

A I don't remember all the times, but --

Q Almost always, isn't that so?

A Yes, sir.

Q Your mother had told you what a friend he had been to your family, hadn't she?

A I knew it, yes, sir.

Q She told you about things in the past that Weisman had done for the Hellerman family, didn't she?

A Yes, sir.

Q Favors for the Hellerman family?

A I don't know what you are talking about.

Q Didn't your mother tell you that Mr.Weisman had been --

MR. WALKER: Your Honor, we object to this.

THE COURT: Overruled.

MR. WALKER: It's hearsay.

THE COURT: He is being asked whether his mother ever told it to him. What is hearsay about that? He is sitting right here. If you want to cross-examine him, you may.

MR. WALKER: What about his mother?

THE COURT: Go ahead.

Q Didn't your mother tell you that Mr. Weisman had rendered many services to your late father and the Weisman family?

A The way you are saying it, no; the way you are saying it, sir.

Q She never told you?

A The way you are saying it, no.

Q By the way, are you in communication with your mother?

A Yes, sir.

Q Where does she live now?

A In Florida.

Q Where in Florida?

A In Ball Harbor.

Q Do you speak with her regularly?

A Yes, sir.

Q When you had this meeting at Mr. Schlachter's office in which you said, "I will piss on your grave," at that moment in March had you ever told anybody anywhere about the meeting that is supposed to have taken place in June at which Mr. Weisman and Mr. Lassoff were present? Had you ever testified to that anywhere?

MR. WALKER: Your Honor, what meeting in June are we talking about?

MR. GOULD: I don't mean June. I mean May. I am sorry.

THE COURT: You mean the breakfast meeting?

MR. GOULD: The breakfast meeting.

Q Had you ever told anybody anywhere about that breakfast meeting?

A I had not yet made my second agreement with the Government. I didn't tell the Government anything until -- you know, all the cases, until I made the second agreement.

Q But I am right, am I not, sir, that when you

were at this meeting in which you said to Weisman, "I will piss on your grave" --

THE COURT: I think we have had enough of that.

Q -- you hadn't told anybody about the breakfast meeting yet, is that right?

A To my recollection, that's right.

Q Now, sir, is it your tesimony, again, that you didn't hear either before or after that meeting that Weisman had complained to the district attorney's office?

A That is correct, sir.

Q And you hadn't heard about it until today?

A Till this very moment I haven't heard about it.

* * *

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REDIRECT EXAMINATION

BY MR. WALKER:

Q Mr. Hellerman, I believe Mr. Gould asked you on cross-examination about whether or not you had been barred from the securities business by the SEC in 1961.

A Yes, sir.

Q And I believe you testified that, yes, you were so barred?

A Yes, sir.

Q Is that correct?

And also there were proceedings by the State Attorney General at that time?

A Yes, sir.

Q Did Mr. Weisman act on your behalf in any part of those proceedings?

A Yes, sir.

Q And what was his participation?

A Mr. Weisman told me that he would like to do all he can to help in my situation with the SEC and the Attorney General. Mr. Weisman told me that he had many influential friends that could do something for me.

MR. GOULD: If your Honor please, I move to strike this out.

THE COURT: Strike it.

MR. WALKER: Your Honor, this goes to the question of knowledge, Mr. Weisman's and Mr. Hellerman's participation.

THE COURT: Strike it.

MR. WALKER: Your Honor, can we have the last portion stricken?

THE COURT: No.

Q Now, Mr. Hellerman, Mr. Gould asked you about two memorial dinners on cross-examination.

A Yes, sir.

Q Do you recall those?

A Yes, I do, sir.

Q One was in 1969 and the other was in 1970; is that correct?

A Yes, sir.

Q Can you tell us what was done with the proceeds of the 1969 dinner?

MR. GOULD: If your Honor pleases, he already testified to all that.

THE COURT: I know, but he is entitled to this on redirect. You brought it out on cross for the first time and you obviously were trying to make a point. Now the Government is trying to clarify the point you tried to make.

MR. GOULD: Very well.

A In 1969 there was a profit made on the dinner that was held in the Holiday Inn. That money was put into a Louis Hellerman Memorial Fund account under the trusteeship of a member of the Hebrew Academy of Nassau County and my mother. When I got indicted, or was under investigation the Hebrew Academy wanted nothing more to do

with me. I had to resign as a member of the board of directors of the Hebrew Academy --

MR. GOULD: Your Honor, I move to strike this out.

MR. WALKER: Your Honor, I am asking for a complete statement.

THE COURT: Objection overruled.

MR. GOULD: But that wasn't --

THE COUR: Objection overruled.

A The Hebrew Academy took half the proceeds that was in the account and the other half was put into -- my mother opened an account called the Louis Hellerman Memorial Fund account, and in 1970, although there was no profit made on the American affair, there was still money left in the Louis Hellerman Memorial account that my mother had control of, and that money was given to the Temple B'nai Sholem in 1970.

Q Now, Mr. Gould referred you to a portion of the transcript in United States against Aloi, Vincent Aloi, et al, and that was a transcript in November of 1973, I believe.

Is that correct?

A Yes, sir.

Q And I believe you pointed out to Mr. Gould a portion of the transcript which you said was incorrect;

is that correct?

A Yes, sir.

Q And would you tell us -- read the question and answer and the following question and answer and tell us which portion you say is incorrect?

A The question is --

MR. GOULD: May we have the page number?

MR. WALKER: Yes, page 2010.

A The question is that was asked of me, "and you told him American" -- they must have meant the America -- "and the people who were attending that you would use the proceeds for the Heart Fund; is that right?"

And in the transcript here it says my answer was:

"Yes, sir," and my answer was, "No, sir" because the next question defense counsel asked me was:

"You didn't?"

So the answer couldn't have been "Yes, sir." I couldn't have answered "Yes, sir," if the next question of defense counsel was "You didn't."

Q What was the answer you gave there?

A "Excuse me, the Heart Fund and other charities, whatever they were."

Q With regard to the Americana dinner, you

mentioned that there were no funds left over to pay the charities for the 1970 affair; is that correct?

A Yes, sir.

Q Where did the money go?

A Excuse me?

Q Where did the money go for that affair?

MR. GOULD: Your Honor, this is precisely the question I put to him that was asked and answered.

THE COURT: I know, but you cut him off on part of his answer. I think I know what the Assistant is trying to get at.

Objection overruled.

A Whatever money was raised was given to pay the band and the entertainment, not the Americana.

Q And, sir, who owned the band?

A The band was owned --

MR. GOULD: I object to this, your Honor.

THE COURT: Overruled.

A The band was owned by -- or booked by Sam Berger, who was Johnny Dioguardi's attorney's partner.

Q Were any of these Mafia people or organized crime people present at that dinner?

A Yes, many, sir.

Q Who were they?

A Johnny Dio, Hickey DiLorenzo, Sam Berger, Tony Cardinale. There were many of them there.

Q Was Sam Weisman present at that dinner?

A Yes, he was, sir.

Q What did Sam Weisman do at that dinner?

MR. GOULD: If your Honor pleases, this testimony was elicited. He testified yesterday.

THE COURT: No, I still believe you cross-examined him on it. I don't know whether Mr. Weisman was a toastmaster and ran the dinner, which was th impression you gave me at one point, or whether he was one of the speakers, which was the impresion you gave me at another point.

A Mr. Weisman -- we only had one -- we had a show, we had Gene Baylis and Janis Harper, and we had a show at the affair. And before the show Mr. Weisman gave a speech, talking about me and my mother and things like that at the affair.

Q Did you introduce Mr. Weisman to any people at that dinner?

A Yes, I did, sir.

Q Who?

A I introduced Sam to Johnny Dio. I introduced him to the people in my brother-in-law's business; he was

working then for Soptra. I introduced him to Hickey DiLorenzo.

* * *

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H A R O L D K. F R O H L I C H, called as a witnesss by the Government, being first duly sworn, testified as follows:

MR. WALKER: May I proceed, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. WALKER:

Q Mr. Frohlich, how are you presently employed?

A I am a market maker on the Chicago Board Options Exchange.

Q Now, directing your attention, sir, to 1971, May of 1971, how were you employed at that time?

A I was the executive vice-president of Pressman, Frohlich & Frost, Incorporated, a member firm of the New York Stock Exchange.

Q And, sir, what has been your experience prior to that?

A I was in the brokerage business for twenty years, ten years with Oppenheimer & Company, a member of the New York Stock Exchange, and ten years on my own.

Q Do you know Harold Lassoff?

A I do.

Q Do you see him here in the courtroom?

A I do.

Q Will you point him out?

MR. HAWKE: I concede the identification.

MR. WALKER: May the record reflect the identification, your Honor?

THE COURT: Yes.

Q Mr. Frohlich, in May 1971 how was Mr. Lassoff employed?

A He was a registered representative of Pressman, Frohlich & Frost.

Q Now, sir, directing your attention to May 7, 1971, did you have a conversation with Mr. Lassoff concerning Automated Information Systems stock?

A I did.

Q And where was that conversation?

A In my office.

Q What was the conversation, sir?

A Could I -- at the time I wrote a memo and I would appreciate looking at the memo to refresh my recollection, since it's four years ago.

Q I have no objection to that.

A Three years ago.

MR. HAWKE: Can we refresh his recollection first?

THE COURT: He says he has no recollection. He already said he has no recollection.

MR. HAWKE: All right. I didn't hear that.

Q Mr. Frohlich, is this a copy of the memorandum?

A Yes.

Q When was that memorandum prepared?

A On the afternoon of May 7th.

Q 1971?

A Of 1971.

Q All right.

Would you tell us, sir, using that memorandum to refresh your recollection, what the conversation was between you and Mr. Lassoff and where it occurred?

MR. GOULD: It has been premarked, your Honor. Shouldn't we have a reference to it by exhibit number?

MR. WALKER: 3507 for identification.

THE COURT: All right.

A Mr. Lassoff came into my office and stated that he had received a telephone call from a Mr. Erwin J. Layne. He gave me the telephone number. And this gentleman wished to purchase Automated Information Systems. And when Mr. Lassoff asked -- this was not an account of Mr. Lassoff and the name was Newton and it was not an account of our firm. So when he asked the customer who recommended him, the customer said Mr. Michael Hellerman recommended him.

At that point Mr. Lassoff came to see me and he asked me what he should do.

Q Now, what did you say?

A I told him he should not open the account since Mr. Hellerman was under indictment for various things which had been in the newspapers, and also I told him that -- well, I was somewhat concerned exactly how to stop Mr. Layne from purchasing anything through us since I didn't want any person recommended by Mr. Hellerman to buy stock from us.

I suggested that -- I suggested that Mr. Lassoff

state to Mr. Layne that on a new client we would ask -- we wouldn't take the order unless he paid for the stock in advance, and at that point Mr. Layne decided he didn't wish to purchase the stock, according to Mr. Lassoff, and that ended the matter with Mr. Layne.

Q Was anything said, sir, concerning any prior --

MR. HAWKE: I object to the leading, your Honor, unless he exhausted his recollection.

THE COURT: Right.

Q Do you recall anything further that was said at that moment?

A Yes. I then spoke with Mr. Lassoff and asked him about the above-mentioned stock at Automated Information Systems and if he had purchased it for anyone else, and he said he had purchased it for an old client, a Mr. Weisman.

THE COURT: What?

THE WITNESS: A Mr. Weisman.

THE COURT: Is Weisman the name of the old client?

THE WITNESS: Yes, sir.

THE COURT: All right.

Q What else did he say?

A He stated that he knew Mr. Weisman for a very long time, that Mr. Weisman was an old conservative account

who purchased the stock on a non-solicited basis. I asked him if he had purchased any additional stock for any customer, and he said yes, he had purchased some shares for Mr. Cohen who was -- who he said was the president of International Stretch, who was also an old account of Mr. Lassoff.

And I asked him why he purchased the stock for Mr. Cohen, whether this was solicited or unsolicited. He said that Mr. Cohen had indicated to him at various times that he was always interested in something that might be interesting speculatively, and that he had recommended it on the basis that Mr. Weisman, who was a very conservative purchaser and didn't purchase speculative securities, had bought this stock.

I asked --

Well, do you want me to go on?

Q Well, did you ask him --

THE COURT: He wants the whole conversation.

Q Yes, the whole conversation.

A Okay, fine.

He said he gave Mr. Cohen the information that he knew nothing about the security and that he was merely recommending it because Mr.Weisman was an old conservative account who usually didn't buy this type of security.

I then called Mr. Weisman and asked --

Q You called Mr. Weisman?

A Subsequent to that, I called Mr. Weisman.

Q Yes?

THE COURT: That day?

THE WITNESS: Yes.

Q What was your conversation with Mr. Weisman?

A I asked Mr. Weisman who had recommended the stock to him, and he said Mr. Hellerman had.

I then asked -- I am quoting if I remember exactly -- I then asked Mr. Weisman if he knew of Mr. Hellerman's problems. He said he did know, but there was no law against his purchasing securities that Mr. Hellerman liked.

I agreed with him on this fact, but tried to point out to him that Mr. Hellerman's recommendation should not influence a prudent man to make a purchase.

Mr. Weisman repeated again there was no law against the purchase and we left it at that.

I then checked back and --

MR. GOULD: I object to the next part, your Honor, which is immaterial.

THE COURT: This is not part of the conversation?

THE WITNESS: With Mr. Weisman, no.

Q Just the conversation that you had.

A Right. There was no other conversation with Mr. Weisman.

Q What did you do then?

A I then called Mr. Cohen. I don't in the memo know exactly when I called Mr. Cohen, but I -- to the best of my recollection I must have called him a short time after I spoke to Mr. Weisman.

Q What was your conversation with Mr. Cohen?

A I spoke with Mr. Cohen and asked him if the facts were -- the reason for his purchase was more or less as Mr. Lassoff had stated and he said they were.

I pointed out to him that if he purchased merely because someone else was buying the stock, that might be highly speculative, was he satisfied with that.

And he said yes, he had spoken to a registered representative whom he knew at Bache who said the stock might be a good speculation.

At that point I dropped the matter with either one of them.

Q Did you mention Hellerman's name to Cohen?

A No.

Q And did you have any further conversations with Mr. Lassoff following this telephone conversation

about Automated Information Systems?

A Well, I asked Mr. Lassoff under no circumstances to recommend a security that he knew nothing about, which he immediately agreed not to do.

And I then also called our attorneys, and that is in another memo, as you know.

Q And what happened?

A I called our attorneys since we had been burnt in a previous matter in which Mr. Hellerman was involved. His name was --

Q What matter was that?

A Imperial Investment.

And I asked our attorneys to get in touch with the SEC --

MR. GOULD: If your Honor please, I am going to object to this.

THE COURT: Sustained.

MR. WALKER: Your Honor, unless I am permitted to clarify that last answer, I move that it be stricken.

THE COURT: All right, strike it.

Q Did Mr. Lassoff ever tell you anything about the company itself?

A No.

Q Did you ever ask him about it, what he knew about the company himself?

A I did at the time of the first conversation.

Q And what did he say?

A He said he did not know anything about the company.

Q Did Mr. Lassoff at any time tell you whether or not there was any cash arrangement with regard to Mr. Cohen or Mr. Weisman in connection with their trade?

A No.

MR. HAWKE: Your Honor, I object.

THE COURT: Why?

MR. HAWKE: I think the witness has told his recollection of the conversation.

THE COURT: Overruled.

Q Did he, sir?

A No.

Q Did he tell you about any cash arrangement in

connection with the Automated stock?

A No.

Q Did Mr. Lassoff tell you that Mr. Weisman had bought the stock from Hellerman?

A From Hellerman?

Q Yes.

MR. GOULD: I object to that.

MR. WALKER: Excuse me, I withdraw that.

THE COURT: Sustained.

Q Did Mr. Lassoff ever tell you that Mr. Weisman had bought the stock on the recommendation of Hellerman?

A Not to my recollection. Mr. Weisman told me that.

Q Yes.

No, my question was whether Mr. Lassoff told you.

A Not to my recollection.

Q Did Mr. Lassoff tell you at any time that he had been told that the stock would go to approximately $20 a share?

MR. HAWKE: I object to this, your Honor.

THE COURT: Overruled.

A No.

Q I have some documents I would like to put before

you, sir.

I show you Government's Exhibits 6-A, 6-B and 6-C for identification and I ask you if you can identify these documents.

A Yes. Unfortunately I don't -- oh, this is C, B and A.

A is a new account card from Mr. Weisman.

Q What is B?

A B is the copy of the order ticket which would be placed by Mr. Lassoff in the window where the order clerk, the over-the-counter trader, would execute the order.

Q Is this in respect to 3000 shares?

A It is in respect to 3000 shares.

Q What is C?

A C is a copy of the statement of Loeb, Rhoades & Company who cleared our accounts, both Loeb, Rhoades and the investments appearing on the statement, Mr. Weisman's statement for the month of May 1971.

Q Now, this statement shows entries as of May 10th. What date is that?

A That's a settlement. All statement dates are settlement dates of a trade. They are, in other words, five days subsequent -- today it's five days --

at that time I believe also four days -- it used to be four days.

Q Five business days?

A Five business days subsequent to the day the trade occurred.

Q So that would be a week including the non-business days; correct?

A If there is no holiday it would be a week.

Q This would be May 10th?

A Which would be a May 3rd trade.

Q I don't think the date came through on this copy.

A Yes. It normally would be the dates, unless there was a holiday --

MR. COULD: Your Honor, I will concede that. There is no issue about the trade. We will concede who bought the stock.

MR. WALKER: I just want this clarified for the jury.

MR. GOULD: Why do you need all this stuff?

Q Mr. Frohlich, I show you Exhibits 7-A, 7-B and 7-C for identification and ask you if you can clarify those.

A Those are similar documents from Mr. Cohen.

7-A is the copy of the new account form for

Mr. Cohen.

7-B consists of copies of four purchase tickets totally 3000 shares of stock bought.

And 7-C is a copy of Mr. Cohen's statement for the month of June and for the month of May.

Q For the --

A Well, this one is June. This one is May. I'm going back.

MR. GOULD: I make the same concession on the Cohen purchase. It is not in issue. I don't know why we need all this documentation. It is conceded, as far as the defendant Weisman is concerned, that he bought the stock and that Cohen bought the stock.

MR. WALKER: Very well.

Your Honor, I would then --

THE COURT: Let it in. We have gone this far, Mr. Gould. We might as well let them in.

MR. GOULD: All right.

Q Let me ask one more question.

The Cohen statement, which is 7-C, shows a settlement date of May 11th.

A Which would be one day after the other one.

Q Right. So that would indicate a trade date of May 4; is that correct?

A That is correct, again, if there is no holiday.

MR. WALKER: I offer them.

MR. GOULD: No objection.

MR. HAWKE: No objection.

THE COURT: All right. They are received without objection.

(Government's Exhibits 6-A, 6-B, 6-C, 7-A, 7-B and 7-C received in evidence.)

xx Q Mr. Frohlich, through whom did Pressman, Frohlich & Frost clear their records?

A Loeb, Rhoades & Company.

Q Did you have an agreement with Loeb, Rhoades that they were to mail out confirmations with respect to every trade?

A Yes.

Q Was that the custom and business practice of Pressman, Frohlich & Frost to send out confirmations with respect to every day on the trade date?

A They would, right.

Q Those were mailed to customers; is that correct?

A That is correct.

MR. GOULD: Your Honor, with respect to the defendant Weisman, I will concede he got a confirmation

from Loeb, Rhoades through Pressman, Frohlich in the mail.

MR. HAWKE: We already stipulated that.

Q That was mailed here in New York; is that correct?

A Yes.

MR. WALKER: I have no further questions of this witness.

CROSS EXAMINATION

XX BY MR. GOULD:

Q Mr. Frohlich, I note that as you were testifying you were referring to that memorandum that was shown to you?

A I was.

Q But actually there was something you did that I don't see and didn't hear from you. You also told your lawyers to get in touch with the SEC, did you not?

MR. WALKER: Objection, your Honor.

A I so stated and I believe that was objected to.

THE COURT: He so stated.

Next question.

Q Then you were informed within a few days that they did get in touch with the SEC about this matter; is that right?

A Yes, that is correct.

Q And as far as you knew from your lawyers the SEC had all the information about these matters within a few days after May 7?

MR. WALKER: Objection.

A They had whatever information --

THE COURT: All the information at the time? How would he know they had all the information?

Q You got a copy of a memo from your lawyers, didn't you?

A That is correct.

Q And the memo described what they had done with the Securities Exchange Commission?

A That is correct.

Q And they in the memo described pretty much what you have testified to; isn't that right?

A Yes.

Q That was a few days after May 7?

A It was the following week.

THE COURT: What is the date since you have it in your hand?

MR. GOULD: Well, your Honor, I would have to come around to explain. Why don't we step up for a minute? I don't want to be cagey about it.

(At the side bar.)

THE COURT: What is the date?

MR. GOULD: They made the memo on May 12 and it went out on Tuesday, May 11. Why can't we stipulate?

(In open court.)

THE COURT: It is stipulated that the lawyers for the witness' firm went to the SEC on May 11.

Are you finished?

MR. GOULD: I think so.

THE COURT: Mr. Hawke, do you have any questions?

MR. HAWKE: Yes, your Honor.

CROSS EXAMINATION

BY MR. HAWKE:

Q Mr. Frohlich, you heard the name Erwin Layne and that namee caused some concern in your mind; is that right?

A No.

Q You didn't -- you recognized his name, didn't you, Layne?

A No.

Q You discussed Erwin Layne with your attorneys and your attorneys recognized the name?

A I believe so.

Q And he was someone who had been involved in some

stock --

A In previous things with Mr. Hellermn. I'm not certain. Now you're -- we are going back three years.

THE COURT: Let's get something straight.

The witness never heard of Layne, he says, until he came in to place an order.

THE WITNESS: That's a fact.

THE COURT: You mean whether he found out about Layne thereafter?

Q Did you discuss Layne with your attorneys that day?

A I called my attorneys and told them the story I have given on the witness stand and I believe, although I am not 100 per cent certain, that at that time the attorneys knew Layne's name as in some way being connected with Mr. Hellerman.

Q Okay.

When did Mr. Lassoff go to work for your firm? Was it 1968?

A I would have to check. I do not recall. Quite some time before this event.

Q Do you recall how many years it was, roughly?

A I do not, I'm sorry. I would say -- now, you're going into my memory, but I would say at least two years.

Q He just entered the securities business at that time, had he not?

A I cannot answer that question. I do not know. It wasn't in my province in the firm.

Q Your firm was taken over by another firm Phillips, Appel?

A Recently.

Q He was not employed by them?

A No, I have no knowledge of these things.

Q When did you --

A I left the firm when Phillips, Appel took over Pressman, Frohlich Company.

Q When was that?

A May or June -- June of this year.

Q This year?

A Yes.

Q Mr. Lassoff was still employed at Pressman & Frohlich at that time?

A I'm sorry, what is the name, sir?

Q Mr. Lassoff.

A I understand. I can't answer the question, I do not know, but the information is easily available. I don't know. I wasn't handling that area of the firm at all and I didn't see registered representatives.

Q Wait a minute, sir.

At the time you left the firm was Mr. Lassoff an employee?

A I do not know.

Q You don't know, okay.

(Pause.)

MR. GOULD: May I ask another question, your Honor.

MR. HAWKE: I have no further questions.

CROSS EXAMINATION

BY MR. GOULD:

Q Mr. Frohlich, when your lawyers went to the SEC, you told Lassoff that your lawyers had been to the SEC, didn't you?

A Yes, I did.

Q That was on or about May 11th or May 12th?

A I told him after I got an answer from the attorneys, yes.

Q And we can agree, can we not, that you got an answer the day after they were there?

A Presumably, yes.

Q Yes. And you told Lassoff that the lawyers had been to the SEC about this transaction?

A Yes.

MR. GOULD: All right.

Thank you very much.

THE COURT: You may step down.

MR. WALKER: No.

THE COURT: Do you have a question?

MR. WALKER: Brief redirect, yes.

REDIRECT EXAMINATION

XX BY MR. WALKER:

Q When your lawyers went to the SEC, did your lawyers find out that the SEC knew nothing about Automated Systems?

MR. GOULD: I object to this, your Honor.

MR. HAWKE: I object.

THE COURT: Sustained.

MR. WALKER: Your Honor, this was gone into.

THE COURT: He just asked him whether they had gone to the SEC and he said yes. He can't tell you what the conversation was between the SEC and the lawyers.

MR. WALKER: Very well, your Honor.

Q Did your lawyers report to you that this was the first information that the SEC had obtained?

MR. GOULD: No, I object to that, your Honor.

THE COURT: Sustained.

MR. WALKER: Very well.

MR. GOULD: If your Honor please, I don't want to be cast in the role of obstructing on this thing because --

THE COURT: Before making speeches before the jury let's come over to the side bar.

MR. GOULD: Very well.

(At the side bar.)

MR. GOULD: I would be perfectly willing, you see, if I could read this this to the jury and leave out this material here about Imperial.

THE COURT: Let me read it.

MR. GOULD: That is all I am concerned with. That gives you the whole story.

MR. WALKER: Let me see it.

MR. HAWKE: The last paragraph?

MR. GOULD: There is some stuff that has been marked.

THE COURT: I better read the whole thing.

MR. WALKER: Let me just study it, your Honor.

THE COURT: Do you want to edit out "I now feared" --

MR. GOULD: The thing I am concerned with is "Michael Weisman had been involved with Hellerman to some extent."

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I would like to leave that out. It's wrong anyway. The name is wrong in the last paragraph.

MR. WALKER: Your Honor, in view of that I think that the memo shouldn't go in. It wasn't prepared by this witness. It was prepared by his attorneys.

MR. GOULD: You have got a copy of it.

THE COURT: Bring the attorneys in.

MR. GOULD: It will save us bringing the attorneys in.

MR. WALKER: No, it is hearsay. I think it should be fully questioned about. If it should be gone into at all, it shouldn't be gone into on a piecemeal and speculative basis.

THE COURT: He says he wants to put the whole thing in.

MR. WALKER: I object to it as hearsay.

MR. GOULD: I am going to offer it without those provisions in. On cross-examination of the witness I think I have a right to exclude those. We will blank them out.

T5A am

THE COURT: But he would then have the right, for completeness sake, to go into the rest.

MR. GOULD: Oh, yes, if he wants to he can go into the rest.

MR. WALKER: The Weisman aspect of it.

MR. GOULD: Is that what you want to do?

MR. WALKER: As far as I am concerned, noth ing need be gone into and this witness can be excused and we can get on with the trial.

MR. GOULD: It's all right with me.

(In open court.)

MR. WALKER: No further questions, your Honor.

THE COURT: I assume you are finished with the witness, Mr. Gould.

MR. GOULD: Yes, sir, I am.

THE WITNESS: Thank you.

THE COURT: Next witness.

MR. WALKER: Martin Cohen.

(Witness excused.)

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* * *

S A M U E L W E I S M A N , called as a witness in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GOULD:

Q Mr. Weisman, how old are you, sir?

A 73.

Q What is your occupation?

A I am a lawyer.

Q Mr. Weisman, I know it's going to be a little difficult for you, but I want you to talk up so these jurors back here can hear. Take your time, be slow about it, but be sure you talk up so everybody can hear you.

A Yes.

Q You are a practicing lawyer in the City of New York?

A I was admitted to the bar in New York City in 1924, 50 years ago, and I have been practicing in the City

of New York for the past 50 years continuously.

Q Are you married, sir?

A I am.

Q How long have you been married?

A It's 49 years.

Q Always to the same lady?

A Same lady.

Q Do you have children?

A Yes.

Q How many children do you have?

A I have three children and I have nine grandchildren.

Q Take it slow, Mr. Weisman.

A All right.

Q Have you ever held any public offices?

A Yes, I have.

Q What public offices?

A I have been a member of the Legislature of the State of New York representing one of the Bronx districts.

Q For how long?

A Four years.

Q Any other offices you have held?

A No public office, no.

Q Aany quasi-public or philanthropic activities?

A Yes. I am the president of the Hebrew Home For the Aged, Bronx Division, up at Riverdale. I was the vice-president of that office when Burton Roberts, who was then the District Attorney of Bronx County, was the president, and when he became a Supreme Court Justice I succeeded to the presidency of that organization.

I am a trustee of Young Israel of Concourse.

Q What is that?

A That a synagogue.

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Q Mr. Weisman, what kind of practice have you had over the years?

A I have had a general practice of law and for the past twelve years my son has been associated with me. That's Herbert L. Weisman, who is sitting there.

Q This gentleman who sits here?

A Yes.

Q He has been with you for about twelve years.

A Twelve years.

Q Your practice, does it involve the securities laws in any way?

A No, I have never done any securities work.

Q You don't know anything about the securities laws?

A No, never.

Q You never handled any registration statement?

A I never did, no.

Q Or any kind of proceedings with the Securities and Exchange Commission?

A No, I never had anything to do with any securities.

Q Now, sir, do you know the Hellerman family?

A Yes, I do.

Q How long have you know them?

A Well, I have known the Hellerman family for over

forty years. I knew Mr. Hellerman's father, the late --

Q You mean the father of the fellow who was here?

A Of Michael Hellerman, the late Louis Hellerman of sainted memory. He and I and his family were friends for many years. We socialized together.

He was the vice-president of First Chemical Corn Exchange Bank and then later the Sterling National Bank in New York City.

Q And did you --

A And we were friends up to the date of his death.

Q He died, did he not, in 1968?

A Yes, about that time.

Q Did you do banking business with Mr. Louis Hellerman?

A Yes, I did.

Q Were you his lawyer?

A Yes. I drew his will, I handled his estate when he passed away, I represented him when he purchased his house in Rockville Centre, Long Island.

Q And you represented him, did you not, in other personal --.

A Personal matters at different times.

Q You did handle his estate, did you not?

A Yes, I did.

Q You handled it for his wife?

A I was retained by Mrs. Hellerman and by Michael Hellerman.

Q That was in the end of 1968?

A The night when he passed away in '68, yes.

Q Michael Hellerman, how long have you know him?

A I have known him from the date of his birth. I attended his bris; I attended his bar mitzvah; I was present at the bas mitzvah of their daughter, Susan; I was present at the wedding of their daughter, Susan, and any other social functions or unfortunate situations in the family, we always attended with each other.

Q Now, sir, did there come a time some years ago when you arranged a long through Mr. Louis Hellerman?

A Yes.

Q When was that?

A I think it was in about 1960. We owned an apartment building in the Bronx.

Q Who is "we"?

A My wife and myself.

Q Yes?

A We owned a building in the Bronx, an apartment house, and at that time the Boyce Thompson Institute had a first mortgage on the building.

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Q Without details, Mr. Weisman --

A Well, they wanted the mortgage paid at the time. So I went to Mr. Louis Hellerman and I asked him if we could arrange to make a loan to pay off the mortgage at that particular time.

Mr. Hellerman asked me what securities we could give as collateral for the loan and I told him between my wife and myself and members of the family we could get together enough securities to collateralize a loan for $80,000, and in addition to that, we would assign the mortgage to the bank as security for the $80,000 loan.

Q Then there was a loan that you made directly to Mr. Hellerman, correct?

A Well, that -- about a year or so afterwards we were able to get a first mortgage on the building, so we paid the $80,000, we took an assignment of the mortgage to the new mortgagee, and my securities were at the bank. I then asked Mr. Hellerman to have the securities returned to me.

Q Did you get your securities back?

A No, I did not. Mr. Louis Hellerman asked me -- he said that he needed for himself and his family a loan of some $40,000, would I be good enough to make a loan at the bank of $40,000 and to leave my securities there as

collateral for the loan.

I told him that we had been friends for so many years, he wanted me to do it, I was very glad to do it, and I did do it. I made a loan of $40,000, the proceeds of which Mr. Louis Hellerman received, and I left my securities at the bank as collateral for that particular loan.

Q In other words, as I understand it, you borrowed the money, gave it to Mr. Louis Hellerman?

A That's correct.

Q You borrowed it on your own security?

A That is correct.

Q And in 1968, when Mr. Hellerman died, ahd the loan been repaid?

A Part of it had been repaid. There was still a balance of $25,000 that was due to the bank.

Q Had that been repaid?

A That was repaid by me. I think there is a check there, my own check, for $25,000, which I had to use to repay that loan.

Q So that the Estate of Louis Hellerman in 1968 owed you how much?

A $25,000.

Q In connection with this check?

A Yes. The estate was insolvent.

Q We will come to that.

A All right.

Q At any rate, you paid the $25,000, you got your securities back, but you didn't get the $25,000 back from the Hellerman Estate?

A No, I did not.

Q When he died, I understand your testimony to be that you were the lawyer who probated his will?

A Yes, I did.

Q You handled the estate?

A I did.

Q Now, sir, you said before, and I stopped you, the estate was insolvent.

A Yes.

Q Was there a very special problem with respect to the estate?

A Yes, there was.

Q What was it, sir?

A Mr. Louis Hellerman had guaranteed a number of obligations for Mr. Michael Hellerman in the business or for his own self -- I don't know for whom, but there was over a hundred thousand dollars of guarantees, and the only asset in his estate was the house they lived in, in

which there was an equity of about 10 or 12 thousand dollars. The only other asset in the estate was life insurance. There was a $100,000 --

Q Let me stop you for a moment before we come to the life insurance.

A Sure.

Q Do we have it, then, that as of the date of Mr. Louis Hellerman's death he owed you $25,000, the balance due on the note?

A That's right.

Q And he owed money on guarantees which he had given for Michael Hellerman in what sum, approximately?

A Over a hundred thousand dollars.

Q Other than the dwelling, there were no immediate assets?

A No immediate assets, right.

Q Now let's get to the insurance.

What was the value of the dwelling?

A There was a life insurance --

Q No, no; the dwelling house.

A The dwelling house had an equity of about $10,000 and we made an application in behalf of Mrs. Hellerman for permission to sell the house to her. We served citations --

Q Without details, she bought the house?

A She bought the house pursuant to leave of the surrogate.

Q How about insurance?

A Mrs. Hellerman collected $210,000 of life insurance. There was a $100,000 policy which the bank carried on the life of Louis Hellerman, a group insurance policy -- she got the proceeds of that -- and there was $110,000 of life insurance carried on the life of Louis Hellerman, and of course that insurance was not subject to claims of creditors. She was named directly as beneficiary of those policies.

Q With respect to those policies, that went into the estate?

A None of it went into the estate. She collected the entire $210,000.

Q So you didn't get your $25,000 out of the estate?

A I didn't get any part of it.

Q Did you get a fee for handling the estate?

A The only fee I got was a fee of $400 for handling the sale of the house to Mrs. Hellerman. As far as handling the estate is concerned, I did not get a fee.

Q Did there come a time after the death of Louis Hellerman when you instituted an action to collect the $25,000 that was due to you?

A I did, together with some other monies that was due to clients of mine and some other monies that was due to me.

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Q I show you this paper, sir --

MR. GOULD: Would you mark that for identification?

(Defendant Weisman's Exhibit L was marked for identification.)

Q Just take a look at it. What is that paper?

A This paper is an itemization of the monies due to me for services I had rendered and disbursements that I had incurred in behalf of the Hellermans, which amounted at that time to $30,000, and there was indebtedness to some other clients of mine -- Herbert Lazar -- to the extent of $28,000 and indebtedness of $18,000 to my son, Herbert L. Weisman. And it made a total of $107,000.

$6,000 of that was paid, which brought it down at the time to $101,000.

Q Whose signatures are on there?

A On this paper it was agreed to by Louis Hellerman and Michael Hellerman. Both of them agreed they owed me that amount of money and this was signed in my presence.

Q And when was it signed?

A It was about 1964 or '65.

Q So that on the date of Louis Hellerman's death in 1968 there was owed to you how much?

A About $101,000 -- not to me alone.

MR. WALKER: Do you want to offer it?

MR. GOULD: Yes.

Q That was owed to you and to your son and to Mr. Lazar?

A And clients. A total of $101,000.

Q And Michael Hellerman was a --

A A signatory to that agreement, together with his father, Louis Hellerman. They were both.

MR. GOULD: I offer it in evidence.

MR. WALKER: No objection.

(Defendant Weisman's Exhibit L for identification was received in evidence.)

THE COURT: There is no date on this.

MR. GOULD: I am going to get a date.

Q What date?

A About 1964 or early '65 that was signed.

Q By the time of Louis Hellerman's death in 1968 had any part of that been repaid?

A Yes, $6,000 had been repaid, which left a balance of $101,000. That was the reduction of the loan to the bank.

Q In November 1970 you started an action against Michael Hellerman to collect certain sums, right?

A Yes, I did.

Q And what was the substance of that action?

A The substance of that action was to recover for the monies that I had loaned to him and for the clients that I represented and for my son. I instituted an action in the Supreme Court, Bronx County, in the names of my son, Herbert Lazar, and myself against Michael Hellerman.

Q And that was November 1970, wasn't it?

A Approximately, yes.

Q And this paper which I show you, sir, Weisman Exhibit M for identification, is that a copy of the complaint in the action that you instituted against Michael Hellerman?

A Yes, it is. This is a copy of the summons and complaint that I had served on Michael Hellerman.

MR. GOULD: I offer it in evidence.

MR. WALKER: Your Honor, I fail to see the relevance of this.

THE COURT: This was raised by the defense. Michael Hellerman was examined on this on cross-examination by Mr. Gould. I will let it in.

(Defendant Weisman's Exhibit M was received in evidence.)

MR. GOULD: I don't propose to read it, your Honor. I just want to exhibit it.

xxx

This is a summons and complaint in the Supreme Court in which Sam Weisman and Herbert Weisman and Herbert Lazar are plaintiffs against Michael Hellerman and there is a separate cuase of action on behalf of him.

The lawyer -- I direct your attention to that -- is one Benjamin Adler.

Q And he was your lawyer?

A He was my attorney.

Q And the lawyer for the other plaintiffs, right?

A Yes.

Q Now, sir, in this case there have been some references to a Reno deal.

A Yes.

Q You heard that?

A Yes, I did.

Q What was the Reno deal all about?

A Well, sometime in 1961, I think it was, Michael Hellerman and a group of investors wanted to buy some land in Reno for the purpose of building a hotel on that land.

Mr. Louis Hellerman asked me would I go out with him and with Michael and with the other group of investors to represent them as their attorney in the purchase of the land. I told them I had no objection to going out

there, but that we would have to retain local counsel ifthere was going to be any transaction, since I wasn't familiar with Nevada law.

I did go out to Reno.

Q And what happened?

A And there was a contract signed for the purchase of a large tract of land on which Michael had intended with his other investors to build a hotel on it. He was unable to finance the transaction. It never went through and those investors lost their money who invested the money with him.

Q Did you have any participation in this?

A No, I didn't. I was there only as an attorney.

Q Did you ever get paid for your services?

A No, I didn't.

Q Is there any money in here, in any of the sums enumerated in Weisman Exhibit L, which relates to the Reno deal?

A The sume of $30,000 represents part of the fee for the Reno transaction that I went out. I also went out there three or four times. And also some other actions that had been instituted in which I had advanced disbursements of some 8 or 10 thousand dollars out of my own pocket, which I have never been reimbursed for.

Q You actually paid the expenses?

A I paid all the expenses. I paid printing expenses up to the Court of Appeals. And the $30,000 represents fee, annual note and disbursements. And that is what they agreed was due me.

Q How about your son, Herbert, did he have any part in that?

A Yes, Herbert had loaned Michael Hellerman at that time $18,000.

Q Had that been repaid?

A It had not been repaid.

Q And is that anywhere in the schedule?

A Yes, that is one of the items.

Q That is the part that is due to him, Item 4 in Exhibit L?

A That's correct.

Q What happened in this action? Without going into a lot of detail, you started this suit in November 1970; Mr. Adler brings it for you. What happened in this case?

A Well, he filed an answer by his attorney, Morris Winter, and he denied owing me the money. He pleaded the statute of limitations as a defense to the action.

We made a motion -- my attorney made a motion --

Q Hold on for one second.

xxx (Defendant Weisman's Exhibit N was marked for identification.)

Q I show you this paper and I ask you is that a copy of the answer of Michael Hellerman in the action entitled "Weisman v. Hellerman"?

A Yes.

Q And, sir, in that case, can you tell us, was the answer verified by Michael Hellerman?

A Yes, it was.

Q You have seen the original with his signature?

A I have seen the original with his signature.

Q And in this paper he denied owing you the money?

A He denied owning me the money.

Q In fact, he denied owing the money to any of you?

A That's correct.

Q But he also pleaded the statute of limitations?

A He also pleaded the statute of limitations..

Q Then what happened in the case?

A There was a motion made for a summary judgment in the Supreme Court, Bronx County, on the ground that they

had no defense to the action. The motion came on for a hearing before Judge Postel. Mr. Hellerman's attorney argued very vigorously that there was a defense to the action. My attorney argued there was no defense to the action and Justice Postel wrote a decision which you have there, granting the motion for summary judgment.

Q And thereafter a judgment was entered in your favor against Michael Hellerman?

A Well, first, Mr. Hellerman's attorney made a motion for reargument.

Q It doesn't matter; it culminated in a judgment?

A Mr. Hellerman stated there was a judgment by default. They fought it to the nth degree. That is what I meant to bring out.

Q I understand.

The fact is you got a judgment against Hellerman --

A Which with interest amounted to some 130 some-odd dollars.

MR. GOULD: All right.

THE COURT: Mr. Gould, do you think we ought to tell the jury what the statute of limitations means?

MR. GOULD: Let's have the witness do it, shall we?

THE COURT: Yes.

Q Would you, Mr. Weisman, explain to the jury what the statute of limitations means?

A I will try, yes, surely.

When someone owes you money and more than six years goes by and no part of it is paid on account during that time, or no writing is obtained acknowledging the debt within the six years' time, under the state of limitations you may not recover the debt. It's outlawed by what we call the statute of limitations.

But if there are payments made on account within that six-year period or an acknowledgement is made in writing that the money is due you within the six-year period, then the statute of limitations does not apply.

And that is what Judge Postel held in his decision.

Q At any rate --

THE COURT: In other words, the defendant in that civil case said that the statute barred the right of the plaintiff to collect the money. They argued before the Supreme Court Justice who said that the statute didn't bar the collection of the money and granted judgment without a trial to the plaintiff.

Now you may proceed.

MR. GOULD: Thank you, your Honor.

Q At any rate, as of January 1971 you had a judgment against Hellerman for about $100,000?

A No, about $130,000.

Q $130,000.

What happened with that judgment?

A Well, my attorney served supplementary proceedings --

Q Just the outcome.

A Oh.

Q There was an effort made to collect?

A An effort was made to collect the judgment. We could never serve a supplementary proceeding on Michael Hellerman, but after --

MR. WALKER: What is the date?

MR. GOULD: January '71.

A After many conferences between the attorneys for both sides, a settlement was reached whereby I agreed to drop the $30,000 claim. I agreed to drop the interest and the disbursements, and we brought the claim down to $73,000, $4,000 of that $73,000 was owed to Mr. Adler for some other actions that Adler had represented Hellerman in, and there was an action pending in the Civil Court, Bronx -- in Civil Court, New York, by Mr. Adler to recover the $10,000. It was agreed to settle that

for $4,000 and my claim was reduced down from the 130 some-odd thousand to $69,000.

Q And as I understand it, that settlement that you referred to is embodied in this paper which is Weisman's Exhibit E in this case, right?

A Yes, it is.

Q And that has got your signature on it, has it? Did you sign this agreement?

A I did.

Q Michael Hellerman -- you know his signature, right?

A Yes, sir.

Q And Joel Goldfarb, that is his brother-in-law?

A Brother-in-law.

Q And Herbert signed it?

A Yes.

Q And Mr. Lazar?

A Mr. Lazar signed it.

Q And the two Adlers?

A Yes.

Q Who had an interest in their fee?

A Yes.

THE COURT: What is the date?

MR. GOULD: March 30, your Honor, 1971.

It's in evidence.

Q Under this agreement Mr. Michael Hellerman owed you how much?

A $69,000.

Q And that is the 30th of March, 1971?

A Yes.

Q Did he pay any part of that $69,000?

A Yes, he did.

Q How much did he pay?

A Well, at the time of the signing of the agreement there was paid $3,300 and I think the Adler money was paid.

Q That was $4,000, right?

A Yes. Then we agreed that the balance would be paid over a period of six years with the payment of $1,100 a month without any interest which would then liquidate the indebtedness of the $69,000.

Q Has that indebtedness ever been paid?

A It wasn't paid pursuant to that agreement.

Q I see. There was a subsequent agreemeng?

A There was a subsequent agreement.

THE COURT: Wait. The balance to be paid was $1100 a month?

THE WITNESS: $1100 a month.

THE COURT: All right.

THE WITNESS: May I explain?

THE COURT: No, wait. So that means starting on April 30th each month would be $1100 due?

THE WITNESS: The first payment was to be in June under the agreement.

THE COURT: The first payment in June, Mr. Gould; is that correct?

MR. GOULD: Yes, sir.

THE COURT: And you are saying that no payments were made under this agreement?

THE WITNESS: Yes, there were.

THE COURT: Under this agreement?

THE WITNESS: Under this agreement.

MR. GOULD: There were some. I will bring it out. We just got our signals crossed.

THE COURT: I thought your question was were

there any and he said no.

THE WITNESS: I --

THE COURT: Please.

THE WITNESS: Sorry.

THE COURT: Only answer questions, you know.

THE WITNESS: Yes.

Q Under this agreement there were certain payments made, were there not?

A Yes, there were.

Q How many payments were made?

A Well, there was $4000 paid for the Adlers.

There was $3300 paid at the time of the signing of the agreement. And there was some $1100 and some additional moneys paid which brought the balance down to about 57,000 when Mr. Hellerman stopped making the payments.

Q That was In the fall of 1971?

A That was in the fall of 1973 -- '71, rather, I'm sorry.

Q '71?

A Yes.

Q So some payments were made during the summer of '71 and then it stopped?

A That's correct.

Q And at that point the $57,000 was still owed?

A A default, yes.

Q All right.

Now, sir, from time to time did Mr. Hellerman talk to you about security?

A Yes, he did.

Q And did you buy some securities on his recommendation?

A Yes, I did.

Q Did he ever tell you that any of the securities he recommended to you were the subject of manipulations or riggings?

A Never, never.

Q What did he tell you about these securities?

A He told me these were companies that he knew, that he had investigated, that his own family had made substantial investments in and that if I would buy the stock in these companies I could make some money.

There was one particular stock, Lamtron Industries, which was a Florida-based furniture company.

Mr. Hellerman called me in 1969 and he said his mother was buying substantial blocks of that stock and that I should buy some of it. He knows I hadn't gotten any fees on the moneys that he owed me and he wanted to see that I made some money on the company, that he knew it was

good and was going to pay a dividend shortly and they were doing a large furniture business.

He also told me the company was going to split the stock 3 for 1.

So I went and I purchased the stock through a brokerage firm. I bought some thousand shares which I paid $12,000 some-odd for. I don't recall the exact amo unt. Then I bought some more in 1970.

When I finally sold the stock I took a loss of about $8000 or 9000 on the stock.

THE COURT: Wait now. You say you purchased some of the Lamtron stock in 1969?

THE WITNESS: Yes, May 26, I think it was.

THE COURT: And you purchased some more in 1970?

THE WITNESS: 1970, yes.

Q Now, sir, in connection --

MR. WALKER: Excuse me.

THE COURT: When did you sell it?

MR. WALKER: Could we have the amounts that he purchased?

THE WITNESS: I tell you, I didn't expect to go on the stand today. I will have tomorrow my income tax returns, a complete statement of the dates.

THE COURT: All right.

I will take the statement Mr. Gould wants to give us as the date of the sale, if you have it, Mr. Gould. If you don't have it, we will wait until tomorrow.

MR. GOULD: In July 1969 he sold some.

In April '71 he sold some, and we will have in detail as to how much he bought and how much he sold. I think we have it here, but we have to go through some papers to do it.

THE COURT: All righ.

Q Now, sir, in connection with these purchases and sales of securities --

THE COURT: He only mentioned one, Lamtron.

THE WITNESS: Yes. May I explain about Lamtron further, if I may?

MR. GOULD: Yes.

THE WITNESS: After this investigation was started in Automated Information my son and I were in Florida and we went and examined the stock books of Lamtron Industries in May of 1969, the day that he told me his family was buying substantial blocks of that stock.

The books of Lamtron then showed that on that particular day Mrs. Hellerman was selling stock and had probably sold the stock that I had bought and she had collected a total, as Mr. Hellerman testified on the

witness stand, of $220,000 from Bruns, Nordeman.

Q Mrs. Hellerman was his mother, Jeannie?

A Was his mother, and she was the one who was selling the stock and not buying it. Of course, I discovered that much, much later. This was after the investigation was started in this proceeding that we first discovered that.

Q Now, Mr. Weisman, did you ever hear of a company called J. M. Kelsey & Company?

A Yes, I did.

Q What was it?

A It was a brokerage firm. It was located in the same building that I had my offices in.

Q And did you know Mr. Kelsey?

A I did.

Q Did you have any business with Mr. Kelsey?

A Yes, I had obtained a divorce for Mr. Kelsey some years back. I don't recall just how many years it was, but I had acted for him in a divorce case.

Q Did you ever hear from anybody that Hellerman had any kind of interest whatever in J. M. Kelsey?

A Absolutely none. Mr. Hellerman never told me that he was a secret owner of J. M. Kelsey & Company.

Q Now, let's take your mind back, Mr. Weisman, to

November 1969. Do you remember a conversation with Hellerman there about a security called Tabby's?

A Yes, I do.

Q And who was present?

A I think myself and Mr. Hellerman in my office.

Q And what did you discuss about Tabby?

A He told me it was a company that was coming out with a new issue and it was going to be a very fine company, and so forth. I said, "Buy 2000 shares," because he knew I took a licking on the Lamtron stock and he wanted me to pick up a part of the loss that I had taken on the Lamtron stock.

I did buy 2000 shares and I did make -- when I sold it later I did make a profit of some $3700 on the Tabby stock.

Q Now, in connection with the Tabby stock, did he tell you that it was a good company?

A Yes, he did. He said --

Q Did he tell you anything about having a box on the stock?

A I never heard the term "box" until I heard it described in this courtroom. I never knew what a box was.

Q In connection with Tabby, did Mr. Hellerman tell you anything about rigging it or manipulating it?

A Never, never, never. I wouldn't have dealt with him if I had known that.

Q In connection with Tabby, did You know that your son Herbert had bought some Tabby stock?

A I learned that later. I didn't know at the time that he had.

Q Did you know that anybody else in your office had bought it?

A I learned later that M.r Hellerman had gone to my secretary. He used to go into the office, make telephone calls. She would type a letter for him occasionally. So he bought some of the Tabby stock for my secretary.

Q When did you learn for the first time that your secretary had bought some of Tabby?

A I learned that when I saw the regiscer here which was offered in evidence.

Q You mean in this case?

A In this case. That was the first --

Q That was the first time you learned it?

A The first time I learned it.

Q Now, sir, there was a security called Imperial which was referred to?

A Yes.

Q Had you ever discussed that with Hellerman?

A Never.

Q Did you ever buy any?

A Yes, I did. I bought some Imperial Investing Company through Bruns, Nordeman & Company, a New York Stock Exchange firm, on the recommendation of a very good friend of mine, Henry Schultz. His son was a registered representative of Bruns, Nordeman and he told me that he had bought a substantial block of it. So I bought some ofit and I sold it. I made a profit of about $1600.

Q Did you have any conversations with Hellerman about Imperial?

A Absolutely none whatsoever.

Q Did you know any involvement of Hellerman with Imperial at all?

A No, except I knew that my son had represented Mr. Hellerman in some transaction and he had given him some Imperial stock as a fee which my son sold.

Q Now, there has been a reference to a security called Belmont?

A Yes.

Q And did you ever discuss that with Mr. Hellerman?

A Mr. Hellerman suggested that I buy Belmont.

Q When?

A I don't recall the date, Mr. Gould, but I didn't

buy any.

Q When you discussed Belmont with Hellerman, did he tell you anything about the company?

A Well, he told me that it was a company that was coming out with a new issue and new issues were hot in those days. Everybody was buying new issues. But I didn't buy any Belmont.

Q At any rate you didn't buy it?

A No, I didn't.

Q You turned him down?

A Yes, I did.

Q Now, sir, between March 1971 and May 3rd, 1971 did you see Mr. Hellerman at all?

A Yes.

Q Michael Hellerman?

A That was after we had made the settlement agreement in March of 1971, he came into the office quite frequently.

Q And did he talk to you about securities?

A The first time he spoke to me about securities was over the telephone on May 3rd, 1971.

Q And at that time, as I understand it, sir, he spoke to you about Automated Information Systems?

A That is correct.

Q And was that the first time you ever heard about that stock?

A That's the first time I ever heard of Automated Information.

Q From Hellerman or anybody else?

A From -- only through that telephone call from Mr. Hellerman. I never heard it from anyone else.

Q You never heard the name of it before?

A Never heard the name of it.

Q Now, let's get to that telephone conversation of May 3rd, 1971.

A Mr. Hellerman called me and told me that he had investigated a company called Automated Information Systems. It was a computer company that was getting many new contracts that had to do with software goods and with payroll computers and so forth. And the company was getting many contracts and it was going to be a very good stock.

He suggested that I buy about 3000 shares. I asked -- I'm sorry.

Q Just stop.

In connection with the conversation, was there any reference to the Lamtron stock?

A Yes.

Q What did he say about that?

A He said, "I want to make good to you."

He said, "You had losses in the Lamtron stock and if you buy that stock I am sure that you will make good every dime that you lost In the Lamtron stock."

Q And what did you say to that?

A I asked him how much the stock was selling for that he mentioned to me and he told me it was selling for about $4 a share. And he said to me, "I have so much confidence in this stock that I am willing ot put up 50 per cent of the purchase price of the stock with you and if you lose, if you lose any part of the money I will take the first loss of the 50 per cent."

If there was a loss of more than 50 per cent then I would have to stand that part of the loss over the 50 per cent. "And if there is any profit, he said, "we will split it 50-50."

Q When he proposed that to you did you think that that was a perfectly lawful transaction?

A I certainly thought it was perfectly lawful. I knew of no law against anyone guaranteeing any part of a loss in the purchase of a security. He told me nothing about the fact that he was rigging the stock.

Q We will come to that.

When you told him you would buy the stock did you have any reason to believe that your purchase was part of a criminal plan or scheme?

A Absolutely none whatsoever. I didn't buy it from Mr. Hellerman. I bought it through a broker, a Stock Exchange firm.

Q He didn't tell you, did he, he was selling his stock?

A No, he did not.

Q Did you have the impression that he was selling his stock?

A Absolutely not.

Q Did you have the impression that he had a substantial block of stock?

A I didn't know what the word box meant.

THE COURT: No, no.

Q No, I didn't say box.

A Oh. I am sorry.

Q Did you have the impression that he had a substantial block of stock?

A No, he did not tell me that he had a substantial block of stock.

Q You thought he was just trying to do you a favor, is that it?

A Yes, I did, and I thought -- and because he said he had that much confidence in the company that he was willing to put up and take the first 50 per cent of the loss I felt that that was a good opportunity, and so I went into it and I bought the shares through Pressman, Frohlich & Frost.

Q We will come to it, Mr. Weisman.

A All right.

Q I want to ask you a few questions first about this conversation.

In this conversation did he tell you that he had the box?

A No, sir.

Q Did he tell you that he owned any stock?

A No, sir.

Q Did he tell you that the stock would go to any specific price?

A No, sir, absolutely not.

Q Did he tell you that his brother-in-law, Joel Goldfarb would deliver the money to you to secure --

A Yes. He said if I bought the stock he would deliver the cash the following day.

Q All of this was in a telephone conversation?

A This was a telephone conversation.

Q You didn't see him face-to-face on that day?

A No, I did not.

Q That day is May 3, 1971?

A May 3rd, that's correct.

Q We are in agreement on that?

A Yes.

Q What did you do about that stock on that day, May 3rd?

A I then called the office of Pressman, Frohlich & Frost and I spoke to Mr. Harold Lassoff. I had known --

Q Pressman, Frohlich & Frost, you had an account there, right?

A I did.

Q You had had it for some time?

A Yes.

Q Mr. Lassoff was the registered representative?

A He was the registered representative through

whom I dealt.

Q You knew Lassoff, didn't you?

A I have known Mr. Lassoff for about 40 or 45 years.

Q You had done business with him before?

A I had done Business with him before, yes.

Q You knew that Pressman, Frohlich & Frost was a concern with was a memember of the New York Stock Exchange?

A A reputable Stock Exchange firm.

Q It cleared through Loeb, Rhoades?

A Cleared through Loeb, Rhoades.

Q Did you give Mr. Lassoff an order that day?

A I gave him an order to purchase in my name 3000 shares of Automated Information, but I first asked him what the quotations were on the stock, and he gave me -- he called me back and he told me what the approximate price of the stock was. So I told him to buy me 3000.

Q When he gave you the price, he gave you the bid and asked in the sheets?

A The bid and asked, right.

Q It wasn't traded on the Stock Exchange?

A No, it was over-the-counter.

Q You knew that, didn't you?

A Yes, of course.

Q In that conversation when you placed that order for the 3000 shares of Automated with Lassoff did you tell him anything about Hellerman?

A No, I did not mention Hellerman to him at all on that day.

Q Did you suggest to him that he recommend the stock to anybody else?

A Absolutely not.

Q All you did was place an order with him?

A I placed an order in the regular course of business, like I did with other orders of stock that we may have purchased.

Q Then he called you back, right?

A He called me back, he gave me the quotations on it, the bid and ask price.

Q And you said, "Go ahead and buy"?

A I asked him to buy 3000 shares and to try to get it as reasonable as he could.

Q You bought, did you not, on that day 3000 shares at an aggregate purchase price of$13,639.04, including brokerage commissions?

A That was the total of the purchase price. Some of the stock was bought at a lower price, some at a little higher price, but the aggregate was the figure you

had mentioned.

Q $13,639.04, including commissions, correct?

A That's correct.

Q You didn't have any conversation with Lassoff about where he should buy the stock or how he should find it, did you?

A I had no idea where he would buy the stock or through whom he would buy it. I dealt with him as a brokerage firm.

Q As of that day all you knew was that he was going to fill the order in the normal, regular, conventional way, correct?

A That is correct.

Q By the way, you did pay for the stock?

A Yes. You have the two checks there.

Q You paid two checks to Loeb,Rhoades & Company aggregating $13,639.04.

MR. GOULD: To save time, your honor, shall I mark the checks and the confirmations as a single exhibit?

THE COURT: Yes.

(Defendant Weisman's Exhibit O was marked for identification.)

THE COURT: Any objecion, Mr. Walker?

MR. WALKER: No, your Honor.

(Defendant Weisman's Exhibit was received in evidence.)

xx Q These are the checks that you sent?

A Right.

Q And these are the confirmations that you got?

A That I received, yes, sir.

Q They all add up to 3000 shares of Automated and the total of $13,639.04?

A That's correct. I made the checks payable to Loeb, Rhoades & Company.

Q They confirmed it to you?

A They cleared for Pressman, Frohlich.

Q Now, sir, did there come a time when Joel Goldfarb delivered some money to you?

A Yes, he did, the following day, on March 4th.

Q That is the day after the telephone conversation?

A That's correct.

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Q You knew Goldfarb, didn't you?

A Oh, sure. I had been to his wedding.

Q He walked in your office and he handed you some money, right?

A Yes. He gave me exactly one-half of the purchase price.

Q $6,937?

A That's correct.

Q What did you do with that money?

A I put that money in a safe deposit box at the Manufacturers Hanover Trust Company, where I maintained a safe deposit box.

Q On that day that you got that money from Goldfarb did you hear from Mr. Lassoff?

A Yes, I did.

Q How did you hear from him?

A Mr. Lassoff called me on the telephone and he asked me what I knew about Automated Information. I then told him that Mr. Hellerman had recommended --

Q Let me just stop you.

He initiated that conversation?

A He initiated it. I did not.

Q He simply wanted to know what you knew about the company?

A That's correct.

Q Did he tell you why he wanted to know?

A He said he wanted to recommend the stock to a very good friend of his, a Mr. Martin Cohen. I had never met or knew Mr. Cohen, never heard of him before.

Mr. Lassoff told me he was a good friend of his and he wanted to know what I knew about Automated Information. I told him --

Q What did you tell him?

A I told him I knew nothing much about the company, except what Mr. Hellerman had told me about it. I told him I bought the stock on Mr. Hellerman's recommendation. And I also told him the arrangement I had made with Mr. Hellerman whereby he advanced 50 percent of the purchase price and agreed to take the first loss of the 50 percent in the event the stock went down.

Q Was it ever suggested to you in any way by Mr. Hellerman that you shouldn't tell anybody about the arrangement you had?

A He didn't tell me I should or I shouldn't.

Q And you had no hesitation in telling Lassoff about it?

A I told Lassoff the truth.

Q I just want to go back --

THE COURT: Maybe we ought to have a short recess at this point.

MR. GOULD: Thank you.

(Recess)

BY MR. GOULD:

Q Mr. Weisman, before we come to these conversations between yourself and Lassoff again, you know as a lawyer, don't you, you have a right not to get on the witness stand?

A Yes, but I insisted on going on the witness stand.

I testified before the grand jury. I offered to take a lie detector test at my own expense.

THE COURT: Wait, wait, wait.

MR. GOULD: I got more than I bargained for. I am sorry.

MR. WALKER: Can we have that stricken, your Honor?

THE COURT: Strike it.

MR. GOULD: Not the whole answer.

THE COURT: I will strike the lie detector test.

MR. GOULD: Yes, of course, that part, but I think it's proper for him to say he voluntarily testified before the grand jury.

Q That was voluntary, wasn't it?

A That was voluntary.

Q You asked to go before the grand jury?

A I asked to go before the grand jury and I asked to be put on the stand here.

Q You wanted to tell the story?

A I wanted to tell the story, yes.

Q I neglected to ask you about something, sir.

When I asked you about your professional life and so on, am I not right, sir, that within the last week or so you have received a special award from the Bronx County Bar Association?

A I did. I received an award from the Bronx County Bar Association for fifty years of service at the bar without any blemish of any kind.

Q You have been the recipient, have you not, of certain testimonial dinners?

A I have. I was a guest of honor at a dinner for the Hebrew Home for the Aged, where I served.

MR. GOULD: Can we mark these, deem this one marked?

MR. WALKER: Your Honor, I think we can stipulate the facts.

THE COURT: Whatever you want.

MR. GOULD: I would rather show it to the jury.

THE COURT: All right.

MR. WALKER: No objection.

xxx (Defendant Weisman's Exhibit P was received in evidence.)

MR. GOULD: Ladies and gentlemen of the jury, I don't want to take much time with this. We will come to it.

This is a plaque which he received with the affection and esteem of his fellow members of the Bronx County Bar Association, and this is the program of that testimonial dinner at which he, along with certain other guests, were honored, judges of the Supreme Court and of the Appellate Division, and distinguished lawyers and so on, and this one is a program of a testimonial dinner given for the Hebrew Home for the Aged in Riverdale, Judge Roberts being the toastmaster and Mr. Weisman being the honored guest or guest of honor, as described here.

Q Mr. Weisman, go back to the month of May 1971, when you had this first conversation with this fellow Hellerman about the Automated stock.

Had you up until then learned of Mr. Hellerman's indictment in any cases?

A No, I didn't know he was indicted. I knew that he was under some investigation for some matters.

Q Did he ever show you the indictment in the Imperial matter?

A He never did. I didn't represent him in any of those matters and I never saw any indictment of his.

Q But you say you did know that he was under investigation?

A I did know he was under investigation, yes.

Q Did you know what he was under investigation for?

A I knew he had some problems in Florida. I thought he was under investigation for that matter.

Q Did he tell you in any way, directly or indirectly, that he had been the subject of any formal charges by any agency?

A Not of any indictment, no.

Q You didn't know of any indictment?

A No, sir.

Q Did you know of any proceedings by the Securities and Exchange Commission?

A Well, I knew -- not by the Securities and Exchange, but I knew of a proceeding before the State Attorney General's Office back in 1962. I think he was barred for a period of five years.

Q The Chrislin case?

A In the Chrislin case, that's correct.

Q Now, let's go back to the conversation when Lassoff calls you after you had given the order, and I think you said that was the following day, May 4th.

A Yes.

Q And would you tell us, in as much detail as you can recall, what Lassoff said to you and you said to Lassoff?

A Lassoff asked me who recommended the stock to me, how did I know about it.

And I told him that it was recommended to me by Michael Hellerman that I had known for many years.

And he told me it was a good, growing company and that I would make some money on it.

And I also volunteered the information of the 50 percent guarantee that he made with me to Mr. Lassoff.

And Mr. Lassoff said he had a very good friend of his and a client that he wanted to recommend the stock to.

I said, "Well, that is entirely up to you."

Then he asked me could he get the same arrangement with Mr. Hellerman.

I said, "Well, that is something you will have to take up with Mr. Hellerman."

He asked me for Mr. Hellerman's telephone number and I gave it to him. And that is the only thing that I

had to do with the purchase of the stock of Martin Cohen --

Q No, don't volunteer.

Did you call Hellerman and tell him about your conversations with Lassoff?

A No, sir, I didn't.

Q Did you do anything to arrange for Lassoff to see Hellerman or talk to Hellerman?

A No, sir, I gave him the telephone number.

Q You gave Hellerman's telephone number to Lassoff, right?

A Yes.

Q At that moment, sir, did you know what it was that Mr. Lassoff wanted to do with Hellerman?

A I assumed that he wanted to discuss with Mr. Hellerman whether or not he could get the same guarantee for his client that Hellerman had given to me.

Q Did you know the name of his client at that time?

A He may have mentioned the name of Martin Cohen, but I had never met the gentleman or knew the gentleman.

Q Was there anything in your conversation with Lassoff that suggested that he knew Hellerman?

A I don't recall any such.

Q Do you know whether Lassoff knew Hellerman?

A To my knowledge I don't think he did.

Q Now, sir, did it come to your attention after that date, May 4th, that Lassoff's customer had in fact bought some of the AIS stock?

A Yes, Lassoff told me.

Q How?

A Over the phone he told me that he recommended the stock to Mr. Cohen who was a very good friend of his, they socialized a good deal together. Mr. Cohen was the president of a large company that was listed on the American Stock Exchange.

Q Did you ever attend a meeting with Mr. Lassoff and Mr. Hellerman, aside from the breakfast meeting that has been testified to?

A Absolutely not.

Q You were not present at a meeting between Mr. Lassoff, Hellerman and Cohen?

A Never; absolutely not.

Q All right, sir.

Did there come a time, sir, when Lassoff called you about an order that he had received from one Erwin Layne?

A Yes.

Q When was that?

A That was a few days after I had bought the Automated stock.

Q You don't remember how many days, do you?

A Maybe three or four or five days; within that range.

Q Now, sir, what, if anything, did Mr. Lassoff tell you?

A Mr. Lassoff said a man called him or came in to see him -- I don't recall which.

Q He said one --

A A gentleman by the name of Mr. Layne either called him or came in to see him. I don't know which.

Q Do you know Layne?

A No, I never heard of Layne.

And he asked me if I knew him and I said no.

Mr. Lassoff said to me, "He wants to buy some Automated stock."

I said, "What would I have to do with that?"

He said, "I don't know if I should take the order or not."

I said, "If you have any doubt about it, discuss it with your firm and find out about it. I don't know anything about Layne."

Q Then did you hear from anybody at Mr. Lassoff's

firm?

A Yes.

Q Who did you hear from?

A Mr. Frohlich called me.

Q Did you know Mr. Frohlich?

A I never met him before. I never met him at all until this morning I saw him.

Q You never laid eyes on him, did you?

A No, never.

Q But you did get a telephone call from him shortly after Lassoff called you about Layne?

A Yes, I did. Mr. Lassoff got on the telephone first and said, "Mr. Frohlich would like to talk to you."

Q And then Frohlich got on, right?

A Yes, he did.

Q And did you have a conversation with Frohlich?

A I did.

Q This is a telephone conversation?

A Yes.

Q You're in your office and he is on the other end of the line?

A That's correct.

Q What conversation did you have?

A Mr. Frohlich asked me if I knew about Hellerman.

I said, "I've known him all my life."

He asked me if I had known of any difficulties Hellerman was in.

I said, "I know he's under some investigation."

He asked me, "Do you think you ought to deal with Mr. Hellerman?"

I said, "I bought the stock and I am going to stay with the purchase."

That was the substance of the conversation.

Q Did he ask you anything about any arrangements you had with Hellerman?

A No.

Q Did you tell him about any arrangements?

A No, I didn't.

Q Did you call Hellerman and tell him about the conversation you had with Frohlich?

A No, sir, I didn't. No.

Q Now, sir, did there come a time when Mr. Hellerman called you and invited you to breakfast?

A Yes, he did.

Q Mr. Weisman, between the time that Frohlich called you after Lassoff introduced him on the telephone and Hellerman called you inviting you to breakfast, did you have any conversations with Hellerman?

A I may have had. I don't recall any specific conversations.

Q You don't recall anything?

A Nothing of any specific nature.

Q But there did come this time when Hellerman said he would like you to come ~~out~~ to breakfast. And I think he told you, did he not, he wanted Lassoff along, too?

A He asked me would I come to have breakfast at his home, he'd asked Mr. Lassoff to come to his home. And he wanted to discuss about the company.

At that time I was living in Long Beach. We had an apartment in Long Beach and we would visit out there for week ends and this was one of the week ends in May that we had stayed in Long Beach. So I drove in from Long Beach to Mr. Hellerman's home.

Q Now, where was his home?

A In Bayside.

Q Bayside --

A Queens.

Q Bayside is up on the north shore of Long Island, isn't it?

A I'm not sure if it's the north shore, but I know it's Bayside, Queens.

Q And it's near Great Neck, isn't it?

A No, not near Great Neck. I don't think so.

Q At any rate, you did go to breakfast at Hellerman's establishment in Bayside, right?

A Yes, I did.

Q And that date has been fixed as May 16th.

A Yes.

Q That sounds right to you, doesn't it?

A Yes.

Q Who was present at that breakfast?

A When I got there Mr. Lassoff was there.

Q Right.

A Mr. Hellerman and Mrs. Hellerman were there.

Q Right.

A And Mr. Murray Taylor was there. I knew Murray Taylor. He'd come to the office many times with Mr. Hellerman, and Mr. Hellerman had introduced Murray Taylor to me. I never met him other than through Hellerman.

Q Had you ever had any business with Murray Taylor?

A No.

Q Ever represented him?

A Never.

Q Ever bought anything from him?

A Never.

Q Sold anything?

A Never.

Q You just knew him as an acquaintance of Hellerman?

A He used to come in with Hellerman in the office.

Q Didyou know before you got to this meeting that Taylor had anything whatever to do with Automated?

A No, I didn't.

Q All right.

So we have got Hellerman, we've got Taylor, we've got Lassof, yourself --

A And there was another -- my recollection is there were two other gentlemen that I was introduced to whose names I don't remember now, but my recollection is refreshed and Mr. Zardus is one of the gentlemen who was there.

Q One of them is Zardus, right?

A Yes.

Q Was Automated Industries discussed at this breakfast?

A Yes, it was. It was discussed.

Q Now, Mr. Weisman, would you please tell us, with as much profusion of detail as you can recall, just what was said at the breakfast, who said what, if you can remember, and the substance of what they said?

A Well, I recall Mr. Hellerman said that the company was a good, growing company. He told us all about the company and the prospects it had, that it was on the verge of getting contracts which were going to be announced shortly, and we should hold onto our stock and not be worried if the stock went down a little, and not be concerned or be frightened into selling the stock and that we would make money on the stock.

That, in substance, was the basis of the conversation. I heard nothing at all --

Q Don't volunteer. Just wait a minute.

Was anything said about your having guaranteed Mr. Lassoff or Mr. Cohen?

A Absolutely not. I didn't guarantee anything of Mr. Lassoff. I didn't recommend to Mr. Lassoff that he get anyone to buy the stock. All I did with Mr. Lassoff was place the order as I would place any stock order with Mr. Lassoff.

Q Now, Mr. Weisman, in this conversation, was there any reference to the fact that you had vouched for or guaranteed Mr. Lassoff?

A Absolutely none, Mr. Gould; none whatsoever.

Q Was there any discussion at all about Mr. Frohlich?

A None that I recall.

Q Was there any discussion about an SEC investigation?

A No, none that I recall.

Q Was there any discussion about buying Frohlich off?

A I have no recollection of having any -- hearing anything like that.

Q Now, sir, have you told us as much as you can remember about this meeting on May 16th?

A Yes. Mr. Hellerman did ask would I go out to talk with Mr. Martin Cohen and I told him that I didn't think it was necessary that I should go.

Q Excuse me. Did he tell you why he wanted you to talk to Mr. --

A Wanted me to tell Mr. Cohen about what I knew about Mr. Hellerman and that I had bought some of the stock. I said, "I don't think that's necessary, and I don't think I should go."

Q That was Lassoff's suggestion?

A No, that was Mr. Hellerman's suggestion.

Q I see. Hellerman.

A Then Mr. Lassoff asked me would I go with him to Mr. Cohen's home, he would like to introduce me to Mr. Cohen. He had a beautiful home in Kings Point, he would like to show me the home and I was going back to Long Beach in any event so it wouldn't be much out of the way. Long Beach was on the south shore and Kings Point was on the north shore, so I wouldn't be far away from Long Beach. He asked me to come along with him and I did.

Q And you arrived at Mr. Cohen's home; correct?

A Yes, we each drove in our own car.

Q When you got to Mr. Cohen's home in Kings Point, who was there?

A Well, I was first introduced to Mr. Cohen and then he was having breakfast at the time and Mrs. Cohen came into the room occasionally and I was introduced to Mrs. Cohen by Mr. Lassoff.

Q Lassoff, you and Cohen; right?

A Yes.

Q And the three of you sat down and you talked about what?

A Yes. He -- Mr. Cohen asked me what I knew about Hellerman and what I knew about Automated Information. I told him that I had known the Hellerman family for 40 years. I told him that Mr. Louis Hellerman, the father was a vice-president of the Chemical Bank and of the Sterling National Bank and we were social friends for many years.

I told him I knew Michael Hellerman from the date of his brith and I told him I bought the stock on the recommendation of Michael Hellerman.

And then he asked me -- Mr. Cohen asked me, "Are you going to stay with the stock?"

And I said, "Yes, I'm not selling the stock."

Q Mr. Weisman, did you tell Cohen of the arrangement that you had with Hellerman about the guarantee?

A No, sir. The only one I told that to was Mr. Lassoff.

Q You did tell it to Lassof?

A Oh, yes.

Q Was that arrangement discussed in any way between you and Mr.Cohen?

A No, sir, that was not brought up at the conversation with Mr. Cohen.

Q Did you know or did you learn in this conversation that Cohen had any special arrangement with Hellerman?

A Mr. Lassoff told me that.

Q When?

A I think it was before the breakfast meeting when Mr. Lassoff told it to me.

Q He told you that he had made -- that Cohen had made a deal with Hellerman?

A Yes, he did, similar arrangement.

Q You had nothing to do with making the deal?

A I had nothing to do with it. I never went to his office or anywhere else. The only time I met him was at his home that particular morning.

Q Mr. Weisman, have you told us as much as you can

remember about the meeting with Cohen?

A In sum and substance that is about as much as I can remember at this time of what we spoke about.

Q When you finished with the conversation with him, did he tell you whether he was going to hold the stock or sell the stock?

A I heard him say this morning he said he was going to hold the stock and he may have said it, but I just don't have any independent recollection of that at this moment.

Q When you left --

A He showed me around the house there. They have a beautiful swimming pool, a very lovely home. He and Mr. Lassoff showed us around the place and then I drove back to Long Beach.

Q Did you call Hellerman from --

A No.

Q -- from Cohen's home?

A No, I did not call Mr. Hellerman from Cohen's house.

Q Did there ever come a time when you advised Hellerman of your meeting with Mr. Cohen?

A I may have at a subsequent time. Mr. Hellerman came into the office frequently during that time. We were on friendly terms. He was making payments under the

settlement agreement that we had made at the time and we were on a friendly basis and he came into the office very frequently.

Q Now, sir, do you remember a time after the breakfast meeting when Hellerman came to your office with Murray Taylor?

A Yes.

Q About when was that, sir?

A That was some time I think in September of 1971.

Q Between May 16th, 1971, the date of the breakfast meeting, and September when Hellerman and Taylor came to your office, had you seen Hellerman?

A Yes, I had seen him. He came in with Mr. Taylor on different occasions.

Q Was there any discussion of Automated?

A We talked about Automated.

Q Actually the stock had start to drop, had it not?

A The stock had started to drop and I recall one Friday afternoon when the stock was dropping and I said to Hellerman --

Q When was that? That was September, wasn't it?

A That was the beginning of September, I think it was, of 1971.

I said, "I'm going to sell Automated, the stock

is dropping. I'm going to release youfrom the guarantee agreement that we made. Whatever the loss is on the stock we'll each take it equally. I will take one-half of the loss, you take one-half of the loss."

So he pleaded with me. He said, "Please don't sell the stock, hold on to it. I guarantee that you will ultimately make money on it and I will guarantee that you will get back the full purchase price. No matter what happens to the stock, you will get your full $14,000 back."

Q Now, sir, anything else?

A Well, that in sum and substance was the conversation that we first had. Then he came in at a later date with Mr. --

Q Excuse me. About the date on that meeting, when he and Taylor came in on a Friday, could that have been earlier than September?

A It might have been earlier than September.

Q July maybe?

A Maybe in August or about that time, but that was before he came in with Mr. Taylor and he asked me for a check for $82.

Q I see. All right. At any rate, between May 16th and the date -- let's call it the date when you gave the $82 check, you had at least one meeting with

Hellerman and Taylor in which you said you wanted to sell your stock and they pleaded with you not to do it?

A Yes, and I offered to release him from the agreement that we had made.

Q All right. And did you then agree not to sell the stock?

A I didn't sell the stock.

Q Now, sir, let's go to September 24th, 1971 .

MR. GOULD: Excuse me just a minute, your Honor.

(Pause.)

Q Mr. Weisman, I am now going to show you this paper which is Exhibit C in evidence in this case. That check has got your signature on it; right?

A Yes, sir.

Q For $82?

A Yes, sir.

Q And it is payable to Murray Taylor?

A Yes, sir.

Q And it was apparently cashed or deposited?

A Whatever. Whatever it was.

Q Now, sir, do you remember giving that check to somebody?

A Yes.

Q When and where?

A At my office. Mr. Hellerman came in --

Q On September 24?

A With Mr. Taylor on that particular date.

Q Okay.

Now we have got Hellerman and Taylor coming into your office.

A Yes.

Q Just the three of you?

A Just the three of us.

Q And what conversation did you have?

A Mr. Hellerman told me he was very happy, he says, "I got someone that will take the stock off your hands, but I need $82 for transfer tax stamps in order to have the stock transferred."

2 So I said, "Mike, transfer stamps are only five cents a share and 3000 shares would only be $15."

He said, "We need $82 to transfer this particular stock."

And when he said I would get a check for the full amount of the stock I made no hesitancy about giving him the $82.

And he said to me, "Make the check payable to Murray Taylor instead of to me."

So I made the check payable to Murray Taylor.

Q Did you ask him why he wanted it payable to Taylor?

A No, I didn't particularly ask him. He said, "Make it payable to Murray Taylor, he is going to transfer the stock." So I made it payable to Murray Taylor.

Q Now, sir, did he tell you when you would get your check for the full amount -- that meant $14,000; right?

A He said in a few days I would get a check for $14,000, the full amount, because he didn't want me to take any loss on the Automated.

Q And in that conversation was there any reference to refunding the cash that you were holding in your safe-deposit box?

A Well, if I got the check for $14,000 I would give him back the check -- the cash that I had.

Q You told him that, didn't you?

A Yes, sure.

Q He asked you for it?

A No, we didn't talk about it, but I think it was pretty much understood I would give him back the cash.

Q Now, sir, did there come a time a few days later when you saw Mr. Hellerman in your office?

A Yes.

Q A few days after September 24th?

A Yes.

Q And who was present then when you saw him in the office?

A Just Mr. Hellerman and myself.

Q And what conversation, if any, did you have with him then?

A Mr. Hellerman said to me that he had some securities in the bank --

Q A little more slowly, Mr. Weisman.

A Securities in the bank downtown and in order to get those securities back so he could be able to give me the $14,000 I should give him the cash that I had taken from him, that he had given me or sent up to me at the time I bought the Automated Information.

I said, "Well, what do you need the cash for?"

He says, "I need the cash, but return it to the party in order to be able to get back the money so I should be able to give you the $14,000."

So I said to him, "All right, I have got the money in a safe-deposit box."

It was in the afternoon. I went over to the safe-deposit box at the manufacturers Hanover Trust Company, which is practically across the street from my office.

I went into the safe-deposit box. I had the cash in the same envelope in which I had received it. I gave it to Mr. Hellerman and I said to him, "Now, look, Mike, I'm giving you this money with the distinct understanding that I am to get a check for this $14,000. If I don't get that check for the $14,000 I want the cash back."

He says, "You will definitely get the check for $14,000 this afternoon." He said, "I'm going to go down to the bank right from here."

Q Did you see him again that afternoon?

A Yes. He came back into the office about five o'clock in the afternoon. He showed me he had the cash, but he said that he got to the bank too late to be able to redeem the securities that he had there and to pay the money.

So I said to him, "Well, I'll take the cash back."

He says, "Why don't you let me hold it overnight so I can be at the bank the first thing in the morning. I'll be there at 9.30 and I'll redeem the securities, I'll be able to give you your check for $14,000."

I said, "Well, with that understanding, it's okay for you to keep the cash overnight."

Q Did you hear from him the next morning?

A The next morning I didn't hear from him. He said he would be at the office by eleven o'clock. I waited for him at the office. By eleven o'clock he didn't come in.

I waited about another half or three-quarters of an hour. He did not come in. So I called his home and the one who answered the telephone -- it wasn't his wife, but the one who answered the telephone said that Mr. Hellerman had left only about 15 minutes ago. So I

then knew that he didn't go to the bank at 9.30 in the morning, like he told me he would go.

Q Did you see him again that day?

A I did not see him that day at all. I tried to reach him on the telephone several times without success.

Q Then did you see him again after that?

A Yes.

Q When and where?

A He came into the office. It was on the eve of our holy day, Yom Kippur. It was on -- I don't recall the day of the week it was. But he said to me, he says, "I'm going to go to synagogue tomorrow. I'm going to fast all day and I'm going to pray."

He says, "I know I haven't done the right thing with you. I've got it on my conscience. But I'll see to it that you get your $14,000 so that you won't lose any part of it."

I says, "Mike, I hope you'll keep your promise and you will do it exactly what you said you will do."

Q Did you make any threats to him at that time?

A Not at that particular time, I did not.

Q Did you have an altercation with him or an argument?

A No, sir, none whatsoever.

Q Well, sir, did you hear from him after that?

A I didn't hear from him for quite some time. When I say quite some time, I am talking about a matter of days. I don't recall just how many days. But he called me and he said that his attorney, Martin Roth, had $30,000 of securities in his own name which belonged to Hellerman and that he had asked Martin Roth, who was the attorney, to sell the stock through Edwards & Hanley, a brokerage firm, and he said out of that, out of the proceeds of the sale of that stock, I would get the $14,000.

I says, "Mike, that's fine."

Q Did you get the $14,000?

A I got a check for $14,000.

Q What happened after that?

A Well, I didn't get the check right away. I got it a short time thereafter. I received a check in the mail from a corporation of Martin Roth.

Q Excuse me just a minute. You got a check from one Martin Roth, is that it?

A Martin Roth, a lawyer, and it was made payable directly to me from the corporation.

Q What corporation?

A I don't remember the name of the corporation.

Q Let me show you this. This is Exhibit D in

evidence.

A That's not the check I am talking about, Mr. Gould.

Q I know it isn't, but does that refresh your recollection as to the name of the corporation?

A I don't recall if it was the same corporation.

Q We have it then you got a check that was a corporate check and it was payable directly to you?

A Right.

Q And you understood that it was supposed to be in payment of Hellerman's debt?

A I called Martin Roth and I says, "Marty, I can't accept a check payable" --

Q Stop a minute. You got the check in the mail?

A In the mail , that's correct.

Q Did you know Roth?

A I met him once before.

Q Had you met him with Hellerman?

A I don't remember if I met him with Hellerman or not. He was up at our office once.

Q Anyway, you called him and you told him what?

A I said to him, "I can't accept a corporate check made payable to me because the corporation doesn't owe me the money. It's not indebted to me and there is

no reason why I should take the corporate check."

I says, "I will take either your personal check or a corporate check made payable to Michael Hellerman and then for Hellerman to endorse the check and give it to me. Then it's perfectly legitimate to show that I got the money from Hellerman and not from the corporation."

Q You didn't want to get it from some corporation that didn't have anything to do with you?

A I had nothing to do with the corporation and I didn't want to take it from a strange corporation.

Q Then did you receive the check?

A I did. I received the check that you are holding in your hand --

Q That is Exhibit D in this case, right?

A -- made payable to Michael Hellerman and endorsed by Michael Hellerman to me.

Q You recognize the Hellerman endorsement on it?

A Yes, I know his signature.

Q Then you just deposited it in your bank?

A I didn't deposit it right away. I got a telephone call from Hellerman to hold the check. He said there were a few problems in transferring the securities, would I hold the check for a few days.

I said, "Fine, I will do that."

I then got several calls from Martin Roth and from Mrs. Roth and Martin Roth told me --

Q Did you know Mrs. Roth?

A No, I never met her.

Q You mean a woman called and said she was Mrs. Roth?

A Said she was Mrs. Roth. Martin Roth said, "We are having a little trouble getting the necessary papers to transfer the securities."

He says, "Please hold up the check." He says, "The minute the transfer is completed I am going to send Mrs. Roth down to Edwards & Hanley, she will pick up the check for the $30,000, and you will get your check for $14,000."

So I held the check for about five or six days or seven days -- I don't recall exactly how long I held it -- and then I tried to get in touch with Hellerman. I was unable to get in touch with him. So I then deposited the check in my bank.

Q The fact is, sir, you deposited it on or about November 24th, is that right?

A Whatever the date is on there I deposited it.

Q Yes, that is the date on there.

A And the check came back account closed.

Q The check came back with this little yellow slip on it, didn't it?

A Yes.

Q The yellow sl ip said, "1. Insufficient funds," and then "Account closed"?

A Account closed.

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Q Go ahead.

A So I called my bank and I asked them could they find out how long that account had been closed, and they told me the account had been closed several months before the date of that check.

So when I got that check that way I tried to get in touch with Hellerman. I was unable to do so.

So my attorney and I -- I knew then that he had fleeced me out of the $7,000 or $6,900 and I considered it a larceny by trick. So my attorney and I went down to the district attorney's office.

Q Just bear with me a moment.

A I am sorry.

Q Hold on just a minute.

You got this check back sometime in December 1971, right?

A Yes.

Q Before you went to the district attorney's office or we come to what you started to say there, did you start an action against Mr. Hellerman?

A Yes, I did. I started an action to -- not only against Mr. Hellerman, but I started an action against Mr. Hellerman, his mother, his brother-in-law, Martin Roth -- I don't recall who else -- to set aside certain

transfers that we had learned through our investigation and title search that we made on the house that he purchased which we thought was in fraud of creditors.

Q Before you go on with that, Mr. Weisman, you remember you had the settlement agreement with him under which there was supposed to be monthly payments?

A But he defaulted under the agreement by that time.

Q When did they --

A I forget. About that time in November he made no more payments.

Q Then we have it, sir, that by November 1st or thereabouts, 1971, he had the $7,000 back, right?

A Right.

Q You had the bum check for $13,900?

A That's correct.

Q And he hadn't made the payments under the judgment and settlement?

A He stopped making payments under the settlement agreement that we had made.

Q Then you started to look into the matter?

A Started to look into the matter.

Q You had an investigation made and you learned of certain transfers?

A I learned of certain transfers that were made which I thought were in fraud of creditors, so my attorney started an action against his mother, against his brother-in-law, against Martin Roth and others, seeking to set aside the frauds that had been perpetrated to prevent creditors from collecting on the judgment that I had recovered against them.

Q The action that you started as a judgment creditor and so on, that is the one where the complaint is in evidence in this case, Defendant Weisman's Exhibit F?

A Yes. It was started in the Supreme Court, Bronx County. I lived in Bronx County at that time.

Q That is the one where Hellerman put in the answer which is Defendant's Exhibit G?

A That's correct.

Q In which he denied owing you anything?

A That's correct.

Q And he denied making the transfers?

A Denied making the false transfers.

Q Now you say, sir, you went to the district Attorney's office?

A Yes.

Q Who went --

A Mr. Adler, my attorney, and myself. Mr. Adler had made an appointment for us to go down to the district attorney's office.

I made a complaint against him for having unlawfully obtained from me the $6,900. I said that was a larceny by trick because he tricked me into giving him the money. He was supposed to give me the check for $14,000. That was the condition under which I had given him the cash back.

So the district attorney said, "We have a number of complaints against Hellerman." He says, "However, will you please put it in writing and send us a complaint telling everything that happened between you and Hellerman with regard to obtaining the $7,000 or the $6,900 in cash."

Q Did you prepare with your attorney a memorandum which you sent to the district attorney's office?

A Yes, we did, a written memorandum.

Q I show you this document which has been marked as Defendant's Exhibit Q for identification. Just ignore the first page. We will come to that.

Is that a copy of the memorandum that you sent to the district attorney?

A Yes, this was a copy of the memorandum in which

I detailed exactly --

Q Just that is the memorandum.

A That is the memorandum.

Q Don't tell us what is in it.

Your lawyer sent you, did he not, a copy of a letter that he got from a Mr. Segal at the office of the district attorney of New York County?

A In which they acknowledged the receipt of the complaint.

Q This first page is a copy of that letter?

A That is a copy of the letter acknowledging receipt of the complaint by the district attorney's office.

MR. GOULD: I offer it in evidence.

MR. WALKER: May I ask a few questions on the voir dire, your Honor?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. WALKER:

Q Mr. Weisman, does this complaint basically outline the facts that you have testified to today?

A No. It goes into the $7,000, because that was the criminal offense, and the district attorney told me to relate how I lost the $7,000.

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MR. GOULD: If your Honor please, I don't think this is proper voir dire.

THE COURT: It's not voir dire.

MR. WALKER: Very well.

THE COURT: You may cross-examine on it.

MR. WALKER: I have no objection.

(Defendant Weisman's Exhibit Q was received in evidence.)

THE COURT: At this time we will adjourn until tomorrow morning at 10:00 o'clock.

(The jury left the courtroom.)

THE COURT: How much more do you have on your direct?

MR. GOULD: Not much more on direct, your Honor.

Your Honor, sometime tomorrow morning, probably right at the beginning, we are going to have a fellow coming in as a character witness. I don't want to bring in character witnesses to interrupt cross. That is obviously unfair. Would your Honor mind, if he is here at 10:00 o'clock, if we withdraw Mr. Weisman and get him out of the way?

MR. WALKER: Sure.

THE COURT: Is he a Sabbath observer, too?

7 jhmch

MR. GOULD: I am sure he is a Sabbath observer.

THE COURT: Do you have other character witnesses?

MR. GOULD: Three or four at the most. We won't have any parade.

THE COURT: Your case will be the completion of the witness on the stand, cross-examination by Mr. Hawke first and the Government second, then you are going to have some character witnesses, and that will end your case?

MR. GOULD: I have two other witnesses, but very short.

THE COURT: We may go through the whole day then tomorrow?

MR. GOULD: I think we will. I think we should plan to finish the case tomorrow.

THE COURT: We are going to have this early adjournment tomorrow.

MR. GOULD: If we don't finish tomorrow, we will finish very early Monday.

MR. HAWKE: Your Honor, I may have two or three witnesses.

THE COURT: I am not blocking you from your witnesses.

8 jhmch

MR. HAWKE: Yes, sir. I am just wondering about the problem of having these people here tomorrow in case Mr. Gould finishes.

THE COURT: I am afraid you had better have them here.

Off the record.

(Discussion off the record)

(Adjournment taken to November 22, 1974 at 10:00 a.m.)

UNITED STATES OF AMERICA

v. 73 Cr. 903

SAMUEL WEISMAN and
HAROLD LASSOFF

November 22, 1974
10:10 a.m.

(Trial resumed)

(In open court; jury present)

S A M U E L W E I S M A N, resumed.

MR. GOULD: Might I, with your Honor's permission, read this document that was introduced into evidence last night?

Ladies and gentlemen, this is the defendant Weisman's Exhibit Q, which was introduced just as we broke up last night.

The first page of it is a letter from Mr. Segal, who is an assistant district attorney in the office of the district attorney of New York Couty. That is the State district attorney, not this district attorney.

And the document which is attached to it, which is the memorandum that was submitted by Mr. Weisman's lawyer, Mr. Adler, whom the letter is addressed to, is what I am going to read to you, and it represents what the witness has characterized as his complaint against Hellerman.

(Mr. Gould read Defendant Weisman's Exhibit Q in evidence to the jury.)

DIRECT EXAMINATION CONTINUED

BY MR. GOULD:

Q Mr. Weisman, following the delivery of that to the district attorney's office by your attorney was there a meeting on or about the middle of March, 1972 with Mr. Hellerman?

A Yes, there was.

Q Am I right about the date, middle of March?

A I believe it was about the time.

Q And where did the meeting take place?

A At the office of Hellerman's attorneys, Schlacter --

Q His lawyers; Mr. Schlacter was one?

A Yes.

Q Who was there, sir?

A We were to meet with Mrs. Hellerman and Michael Hellerman, my own attorneys, Mr. Adler and his son, Robert Adler, and Mr. Schlacter. They were to discuss settlement of the judgment that I had and settlement of the action that I had instituted to set aside certain fraudulent transfers that had been made.

Q And what was said at that meeting by you and by Hellerman? Just tell us what you can about it.

A Mr. Adler, myself and his son --

THE COURT: This judgment you are talking about settling was the same judgment which was the basis of the settlement of the contract back in March, wasn't it?

THE WITNESS: Yes, but also the action that I had later instituted to set aside.

THE COURT: That was merely in aid of the judgment?

THE WITNESS: Yes, in aid of the judgment, that is correct.

Q Now, tell us, please, Mr. Weisman, what was said at that meeting?

A Mr. Hellerman came quite late. It was about an hour after we had gotten there and the first thing he said -- he turned around and said to his mother, "I don't owe Mr. Weisman this money. It's part of the Reno deal and I want to tell mother just what the transaction was."

So Mr. Adler stated, "We have a judgment, that has all been thrashed out in court and we are not going to go over that again. We were invited here to settle this case. If we want to talk settlement, we'll talk settlement."

Mr. Hellerman says, "I'm not going to talk any settlement with you at all."

So Mr. Adler said to him, "You know, we filed a complaint against you with the District Attorney's office for the $6900 that you obtained from Mr. Weisman which is a larceny by trick."

When Mr. Hellerman heard that he started to rave and rant, he became -- he uttered vile words against me and against Mr. Adler. And he finally wound up by saying and pointing his finger at me like this and saying -- he said, "I'll dance at your funeral and I'll piss on your grave."

That's what he said to me.

Q Is there anything else you remember, Mr. Weisman, about that conversation?

A Well -- after he said that, I turned to him and said, "Mike, you're not God, you're not the one to make these kinds of decisions."

And I said to Mr. Adler, "Let's go, we are not going to discuss any settlement here at all today."

And we went back to our respective offices.

Q Was there a subsequent settlement?

A Well, Mrs. Hellerman called me about a half hour later and she apologized for her son's actions. Then Mr.

Adler and Mr. Schlacter independently met several times to work out a settlement. The balance due me at that time was $57,000 which did not include the $7000 that he had taken from me as I had related.

And Mrs. Hellerman agreed to pay the $7000 over some period of time. She did pay the $57,000 and I agreed that I would withdraw the claim from the District Attorney's office and make -- take no further proceedings against --

Q Have you withdrawn the claim, sir?

A We did withdraw the claim.

Q And have you taken any other proceedings?

A We have not taken any other proceedings.

Q Did there come a time, sir, when you were given a subpoena to appear before the grand jury in this court, the Federal Court?

A Yes.

Q And did you appear?

A I did appear before the grand jury.

Q How many times, sir?

A I appeared three times before the grand jury.

Q And have you finally disposed of your Automated stock?

A Yes, I did.

Q What did you get for it?

A $12.

Q A total of how much?

A A total for the 3000 shares -- the total was $12, two cents a share. I took a loss of over $13,600 some-odd on it.

Q Is this the confirmation, sir, relating to your disposition of the shares?

(Defendant Weisman's Exhibit R was marked for identification.

A Yes, this is the confirmation.

MR. GOULD: I offer it in evidence.

MR. WALKER: No objection.

(Defendant Weisman's Exhibit R was received in evidence.)

xx MR. GOULD: May I just exhibit it to the jury, your Honor?

This is the confirmation, Pressman, Frohlich through Loeb, Rhoades, $12.50 for a total of 3000 shares of Automated Information Systems.

THE WITNESS: That's correct.

MR. GOULD: That is all I have on direct, your Honor.

Mr. Walker and I have agreed we can withdraw this witness and bring in a character witness at this time

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so as not to interrupt.

(Witness temporarily excused.)

TtA am

* * *

CROSS EXAMINATION

BY MR. WALKER:

Q Mr. Weisman, you say that Mr. Lassoff has been a client of yours, sir?

A Yes, sir.

Q How many matters have you represented Mr. Lassoff on?

A Quite a few. I don't recall the exact number.

Q Over what period of time?

A Over a period of some 20-odd years or more.

Q What has been the nature of your representation of Mr. Lassoff?

A Well, Mr. Lassoff was in the real estate business. There were closings that came up at different times and some litigation that came up once or twice and I represented him and acted as his attorney.

Q Mr. Weisman, in representing Mr. Lassoff you would make it a point, would you not, to do a very careful job and investigate all of the facts and circumstances pertaining to the business that you were asked to perform?

MR. HAWKE: Object to the question.

THE COURT: Sustained.

Q Do you consider yourself, sir, a careful attorney?

A I hope my clients feel that way.

Q Do you consider yourself that way, sir?

A I consider myself a fairly competent attorney, yes.

Q You mentioned on direct examination that you knew the Hellerman family for a considerable period of time, is that right?

A Yes.

Q When did you first meet Louis Hellerman?

A Probably also about 40 years ago.

Q That would have been prior to the war?

A I met him probably in the late 1930's, I would think.

Q Would you say your relationship with MR. Hellerman while he was alive, Louis Hellerman, was very close?

A It was fairly close, yes.

Q I believe you have stated in the past that you would associate with Mr. Hellerman socially as well as on business, is that right?

A Yes.

Q Mr. Louis Hellerman was at your house on many occasions?

A He was at my home and we were at his home, yes. I represented him when he purchased his home in Rockville

Centre, I was his attorney, I drew his will, and general matters.

Q In difficult times would you go to Mr. Hellerman if you had problems?

MR. GOULD: I object to that, your Honor, as to form.

THE COURT: Overruled.

A Well, I don't recall any --

THE COURT: What he means is when Mr. Weisman had any problems would he go and discuss them with Mr. Hellerman.

Is that what you mean?

MR. WALKER: Yes, sir.

MR. GOULD: There is no showing --

THE COURT: He is asking if he ever did.

Yes or no.

A Well, when I needed the loan of $80,000 from the bank I went to Mr. Louis Hellerman, yes.

Q Were there any other occasions when you had some need and you would go to see Mr. Louis Hellerman about it?

A I don't recall any.

Q Would you discuss with him personal probelsm of yours?

A We had general discussions of a general nature, like friends do.

Q You were Mr. Hellerman's attorney during this period of time, is that correct?

A Mr. Louis Hellerman you are talking about?

Q Yes.

A Yes.

Q Would he come to you as a friend and a client with his problems?

A Yes.

Q Would he do that on a regular basis?

A Well, when you say on a regular basis, I can't --

THE COURT: That is assuming that Mr. Louis Hellerman had problems on a regular basis.

MR. WALKER: Yes.

Q On how many occasions did he come to you with problems of one sort or another?

A I can't recall the number of occasions. At different times.

Q Did there come a time in early 1961 when he came to you with the problem that his son Michael had in connection with his securities business? Yes or no, sir.

A No, he did not come to me about Michael's

security business at that time.

Q Did you have a discussion with Louis Hellerman about that?

A I don't recall.

THE COURT: When?

Q In the early 60's.

A I don't recall if we talked about it at all. I was not Michael Hellerman's attorney.

Q I'm not asking that question, sir. I am asking whether Mr. Hellerman came to you and discussed with you Michael Hellerman's problems in the securities business.

THE COURT: When?

Q In the early 60's, 1960 through 1962.

A I don't recall if he did or not.

Q You have no recollection of that, sir?

A I have no recollection of that.

Q You do recall though going to the State Attorney General to act on Mr. Hellerman's behalf, is that correct?

A There was --

Q Yes or no, sir.

A -- one occasion that I went down with Mr. Michael Hellerman to the State Attorney General's office when the attorney that he had was engaged elsewhere and Michael came to me and asked me would I go down with him

at that particular time, and that was the only time that I went with him.

Q Where did you go with him?

A We went to the Attorney General's office right over here at -- I think it was 80 Centre Street.

Q 80 Centre Street, before they moved to the World Trade Center?

A The World Trade Center, yes.

Q Was that in 1961 or thereabouts?

A I don't recall the date. I know it was in that range.

Q Michael Hellerman was in his early 20's at that time, is that correct?

A I presume so. I don't know his exact age.

Q You were present when he was born?

A I was. I was present at his briss.

Q You knew when he was born?

A I don't recall his exact age at that particular time.

Q He was in his early 20's though you would venture?

A I would assume within that age.

Q Who did you meet with at that time, what public official did you meet with at that time?

A With an Assistant Attorney General.

Q Did the Assistant Attorney General explain to you the nature of Mr. Hellerman's difficulties at that time?

MR. GOULD: If your Honor please, I am going to object to that.

THE COURT: Overruled.

MR. GOULD: If he wants to change it to the nature of any charges that were made --

THE COURT: All right.

MR. GOULD: There is a difference. I happen to know what happened. There is a difference.

THE COURT: Go ahead.

A He discussed generally a problem that Michael Hellerman had at that time with a stock called Chrislin.

Q What did he say that problem was?

A I don't recall the details of that conversation at this time.

Q There was an allegation of fraud in connection with Chrislin against Michael Hellerman, wasn't there?

A I don't recall that.

Q In any event, Mr. Hellerman was barred by the State Attorney General, was he not?

A That came some time afterwards, not at that conversation, because I was not his attorney in that

matter.

Q When did that occur, the barting --

A Some time later. I think there was a five-year suspension, if I remember correctly.

Q There was a five-year suspension and Mr. Hellerman was also barred by the SEC during that period of time, isn't that correct?

A I don't know about his being barred by the SEC, but I know there was a five-year suspension through the Attorney General's office.

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Q You don't know that he was barred by the SEC?

A No, I do not.

Q You didn't discuss that with Mr. Hellerman?

A I didn't discuss it with him, I didn't represent him, and I had nothing to do with it.

Q Did you discuss that with Mr. Louis Hellerman?

A I have no recollection that I did.

Q You have no recollection?

A No.

Q But you can't deny that?

A I don't believe that I did.

Q You were close to the family at that time, were you not?

A Yes, we were friendly.

Q And you were sharing problems back and forth?

A Well, when you say sharing --

THE COURT: I don't know what you mean, "sharing problems back and forth," Mr. Walker.

Q Mr. Michael Hellerman was clearly in potential legal difficulty at that time, isn't that correct?

MR. GOULD: I object to that, your Honor.

A I didn't represent him, Mr. Walker.

THE COURT: Wait a second.

Q That is not my question.

THE COURT: You went to a meeting in the State Attorney General's office to represent Hellerman at that meeting?

THE WITNESS: Yes.

THE COURT: You must have known what was going on.

THE WITNESS: Yes.

THE COURT: Tell us what was going on.

THE WITNESS: There was a problem with regard to the stock of Chrislin and there was a discussion at that meeting as to whether or not Michael would consent to a decree that he would be barred for a period of five years from acting in the securities business, and I said I was in no position to make any decisions for him at that time, I was not his regular attorney, I only came down at that one meeting.

Q My question is not, sir, whether you were his regular attorney, but if you can relate to us what happened at that meeting.

A That is all I recall about that meeting. I acted as a substitute.

Q At that time it was discussed, was it not, between you and the State Attorney General or the Assistant State Attorney General at that time the fact that

proceedings were being brought by the SEC against Mr. Hellerman?

A No, no. My recollection is only the Attorney General was concerned. There was no mention of the SEC at that time.

Q When did you first learn that Mr. Hellerman had been barred by the SEC?

A I did not learn that he had been barred by the SEC.

Q You never knew that he was barred by the SEC?

A I did not learn that he had been barred by the SEC. All I knew is the injunction that was subsequently --

THE COURT: Did you ever learn that he was barred by the SEC?

THE WITNESS: In connection with that '61 incident or later on?

Q Ever.

THE COURT: Wait a second.

MR. WALKER: Sorry, your Honor.

THE COURT: The "ever" is stricken.

MR. WALKER: Very well.

THE WITNESS: Well, I have learned since that he has been barred --

THE COURT: When did you learn that he was barred

by the SEC?

THE WITNESS: After the Automated transaction.

THE COURT: All right.

Q So your testimony is that you didn't learn that he was barred by the SEC for ten years after the fact, is that correct?

MR. GOULD: I have to object to that, your Honor. There is no proof of that.

MR. WALKER: That is the testimony, your Honor.

THE COURT: Not that he was barred for ten years. I thought he was barred for life five times.

MR. WALKER: No. I will withdraw the question.

Q Mr. Weisman, you say you didn't learn that Mr. Hellerman was barred by the SEC until after the Automated deal?

A Yes.

THE COURT: That's right.

Q Then you say you learned he had been barred back in 1961, is that correct?

A By the Attorney General's office.

Q I am talking about by the SEC.

A No, I did not learn that.

THE COURT: Mr. Walker --

MR. WALKER: At that time, your Honor.

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THE COURT: What time?

Q In 1971 you say you learned that Mr. Hellerman had been barred by the SEC?

A Yes.

Q Did you speak to Mr. Louis Hellerman at the time of the Chrislin Photo problem and offer your assistance with Congressman Buck[illegible]y at that time?

A Oh, no, absolutely not.

Q Mr. Gould was involved in the Chrislin Photo situation?

MR. GOULD: I object to that.

A I haven't the slightest idea about that.

THE COURT: Wait a second.

Mr. Gould, you said in front of this jury you know all about this thing.

MR. GOULD: That doesn't mean I was involved.

THE COURT: I am not saying as a participant. Were you there as an attorney? You have told this jury you had been there and you know all about it.

MR. GOULD: I do know all about it.

THE COURT: Tell us in what capacity you knew all about it.

MR. GOULD: I was the attorney for Loeb Rhoades who were -- you know, at this distance -- some of the stock

was sold through Loeb Rhoades.

THE COURT: You were an attorney; you were not a participant?

MR. GOULD: That's all I want to get clear. I don't want to be maligned.

THE COURT: All right. He was an attorney.

Q Mr. Weisman, did you go to any formal court proceedings at the State Attorney General or any proceedings that were held on the record?

A No, sir.

Q You were not present at any time when a transcript was being made?

A When a what was being made?

Q When a transcript was being made in connection with those proceedings, is that correct?

A Well, there may have been a transcript made at that particular meeting, but at this time I don't recall if there was a stenographer in the room or not.

Q Do you recall whether or not at that particular meeting there was any reference to the SEC?

THE COURT: He has already answered that.

A I don't recall that.

THE COURT: All he knows about the SEC he learned in 1971.

Q Mr. Weisman, you mentioned this Reno deal on direct examination.

A Yes.

Q Let's turn to the Reno deal.

When you went out to Reno did you meet Sidney Handweiler out there?

A Yes.

Q What was Mr. Handweiler's occupation at that time?

A I don't know what his occupation was.

Q Didn't you know that he was a bookmaker at that time?

A Oh, no, I didn't know it.

Q Did you meet a Billy Carr out there?

A Yes.

Q Who was Billy Carr?

A I have no idea. I only met him there for the first time and was introduced to him.

Q Was he introduced to you as a bodyguard of Mickey Cohen?

A A what?

Q A bodyguard of Mickey Cohen at that time.

A Absolutely not.

Q Do you know who Mickey Cohen is?

A I have heard the name.

MR. GOULD: If your Honor please, I object to this. This isn't proper cross-examination.

THE COURT: Overruled.

A I have heard the name Mickey Cohen, but I never met him or had anything to do with him.

Q You know that Mickey Cohen is a gangster, do you not?

A Only --

THE COURT: He said he never met him.

MR. WALKER: My question is what his knowledge is, your Honor.

THE COURT: What difference does it make if he never met him or saw him? I know a lot of people walk in and out of this courtroom. It doesn't mean anything, does it?

MR. WALKER: Very well.

THE COURT: Unless you are going to prove that Mickey Cohen was involved in the Reno deal. I assume you are not.

* * *

* * *

Q Mr. Weisman, nowyou attended and gave a speech at the 1970 memorial dinner for Louis Hellerman at the Americana Hotel?

A Yes, I did.

Q And at that dinner you were introduced to Vincent Aloi and others; is that correct?

A Absolutely not.

Q Well, you knew they were present at that dinner?

A I didn't. I never met those gentlemen, never knew they were there.

Q When Mr. Hellerman was indicted, isn't it a fact that you learned that he was named in an indictment with several of those individuals?

A I learned he had been named with Johnny Dio -- Johnny Dioguardi, yes.

Q And that Mr. Hellerman was deeply involved with those individuals at that time?

MR. GOULD Just a minute.

Would you read that?

(Record read)

MR. GOULD: I object to it.

THE COURT: Sustained.

Q Did you learn when you learned of the Imperial indictment that Carmine Trumanti was named in that indictment?

A No, I don't recall that name at all.

MR. GOULD: Objection.

THE COURT: Overruled.

Q Did you learn that Vincent Aloi was named in that indictment?

A No, sir.

MR.GOULD: If your Honor please, I don't think --

THE COURT: Overruled.

MR. GOULD: -- in the absence of some showing who these people are --

MR. WALKER: There has been ample testimony, your Honor.

THE COURT: There has been ample testimony in this record about who these people are from Mr. Hellerman.

MR. GOULD: No, there was no testimony that he knew who they were, that Weisman knew who they were.

THE COURT: He's trying to find out whether he knew.

Q Mr. Weisman, did you know that he had been named in an indictment with Vincent Gugliaro?

A No, sir.

Q Do you know that he had been named in an indictment with Vincent Lombardo?

A No, sir.

Q Pasquale Fusco?

A No, sir.

Q John Savino?

A No, sir.

Q Philip Bonodono?

A No, sir.

Q So it was just John Dioguardi or Johnny Dio?

A The only name that I recall, yes.

Q And that was when the publicity came out about the Imperial indictment?

A That's correct.

Q And the Imperial indictment was sometime in November 1970?

A I don't recall what date it was.

Q But it was the publicity announcing the indictment?

A I don't remember that. I just remember the name Johnny Dio in connection with that indictment.

Q And you remember reading about that --

THE COURT: Wait a second.

You say you remember the name Johnny Dio in connection with the indictment. Does that mean that you heard of the indictment on or about the time itwas handed down?

THE WITNESS: No. It was at a later date.

THE COURT: When did you learn about it?

THE WITNESS: I don't recall now, Judge.

THE COURT: Go ahead.

Q You read it in the papers?

A I don't recall having read it in the paper, but at the time it came up for trial I heard about it.

Q So you are telling this Court and jury that in the fall of 1970 or thereabouts you came down to the U. S. Attorney's office in connection with an investigation, but that you didn't learn about any indictment until the time the case went to trial?

MR. GOULD: I object to that as to form.

THE COURT: Sustained.

Q At the time that you heard that Mr. Hellerman had been indicted with John Dioguardi, did you relate that back to the 1970 dinner and reflect on the fact that you may have met Mr. Dioguardi there?

A No, absolutely didn't.

THE COURT: He denied he met him.

Q How you were a speaker at the 1968 dinner?

A Yes.

Q As well, is that correct?

A That is correct.

Q And were you introduced to any of Mr. Hellerman's associates at that dinner?

A The only one I was introduced to, as I recall, was the Surrogate of Nassau County.

Q Surrogate of Nassau County.

But you weren't introduced to Mr. Aloi or Mr. Dioguardi or Mr. Trumanti or any of those individuals?

A Absolutely not. I never knew or met any of those gentlemen.

* * *

REDIRECT EXAMINATION

BY MR. GOULD:

Q Mr. Weisman, I am referring you now to the report that you made to the District Attorney, Defendant's Exhibit Q in this case.

You told him in the report about the cash that was delivered to you, didn't you?

A Yes, of course.

Q You told him that it was in connection with

these securities?

A Yes, I told him that I purchased securities and what I had paid for them.

Q You didn't conceal from the District Attorney the fact that Hellerman had given you cash and you kept it in a cash deposit box?

A Of course I didn't. It's in the report.

MR. GOULD: Do you want to see it?

MR. WALKER: No. I just asked if you were finished. I have some recross.

Q Did Hellerman have anything whatever to do in any way with your purchase of Imperial stock?

A Absolutely not.

Q Did you ever discuss it with him?

A No.

Q Directly or indirectly in any way?

A No. I bought the stock, as I testified, on the recommendation of Henry Schultz.

Q How about Belmont; did you ever buy the Belmont stock?

A I never bought Belmont stock.

Q Had you ever heard of the Belmont stock before?

A I heard the name Belmont, but I never bought any of the stock.

Q Now, as of May 3rd, 1971, had you ever heard of Mr. Hellerman being convicted of any crime?

A None whatosever.

Q Had you ever heard of any accusation being made against him other than the accusation made in 1961 in the Chrislin case?

A The only -- I knew about the Chrislin case, yes.

Q And you knew, did you not, some time before that that the U. S. Attorney's office was looking into something?

A Yes, I did know that.

Q But you never heard of any actual charges against him except the Chrislin case?

A That's correct.

Q And as far as you know, Hellerman had never been convicted of any crime up to May 3rd, 1971?

A Absolutely.

Q You were asked some questions on cross-examination about the fact that you didn't report $3500 of interest which had been paid to you for income tax purposes.

Now go ahead and explain why you didn't "report" that?

A Yes, I told Mrs. Hellerman that when I had spoken to Mr. Hellerman about paying me the interest in the one hear it would be unfair for me to report that large amount

of interest when I had only taken a short amount of interest -- a small amount of interest over the period '62 on to about '68 and that I would be heavily penalized in income taxes if I had to do that. And Mr. Hellerman told me he would not report the interest that he had given me in that one year's time.

Q And he didn't report the interest; is that correct?

A Well, I learned later that he did report it.

Q I see.

A But he told me that he wouldn't. And when she asked me to give her a letter to the effect that I had reported it, I told her no, I couldn't give her such a letter because I hadn't reported it.

Q You had not.

A And I told her the reasons for it.

Q And you were satisfied that that was a good and sufficient reason for not reporting it?

A It was in my mind, yes.

Q Mr. Weisman, was there any charge or accusation of any kind that has ever been made against you over all that?

A None whatsoever. Never in my 50 years of practice have I ever had any kind of a charge made against

me.

Q This is the first time?

A This is the first time.

MR. GOULD: I have no further questions.

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Defendant Weisman's requests to charge:

Request No. 1 is denied except as charged.

Request No. 2 is denied except as charged, except that on page 4, the last paragraph, we do not give the charge of moral certainty in this Circuit, Mr. Gould.

Request No. 3 is denied except as charged.

You speak in request No. 4 about Counts 6 through 11. I gather it's only 6 and 7 that apply to your defendant.

Request No. 5 is denied except as charged.

Request No. 6 is denied except as charged, but here again I don't charge the first and second paragraphs on page 10. In fact, I charge just the opposite. You have quoted from a Judge Tyler opinion which must be more than eight years old, because it's not the law in this circuit any more. After Judge Friendly's opinion in Geaney they may take into consideration statements of other people.

Request No. 7 is denied.

Request No. 8 is denied.

Request No. 9 is denied except as charged.

Request No. 10, denied except as charged.

I am not going to charge any reference to omissions of material fact which should have been stated. I don't think that is in this case. I think 1 and 2 are but I don't think 3 is.

MR. GOULD: That is the dilemma that I had when I tried to make a motion on this, your Honor.

THE COURT: I think it's under 1 and 2 and not 3.

Request No. 11 is denied except as charged.

Request No. 12 is denied. I think there it didn't have to have the direct effect of causing. It could have been if it was done for the purpose of causing.

It could have been if it was done for the purpose of causing.

Request No. 13 --

MR. GOULD: With respect to that, your Honor, is your Honor then going to charge as to what a manipulative device is or how it had to appear?

THE COURT: I think I will do it sufficiently properly.

MR. GOULD: Thank you.

THE COURT: Request No. 13 is denied except as charged.

Request No. 4 is denied except as charged.

Request No. 15 is denied except as charged.

Request No. 16 is denied except as charged.

Request No. 17 is denied.

Request No. 18 is denied because that is giving the opposite. I just put it affirmatively, what they have to prove, what has to be provee to convince the jury beyond a reasonable doubt.

Request No. 19 is denied except as charged.

Request No. 20 is denied.

Request No. 21 is denied.

Request No. 22 is denied except as charged.

Request No. 23 is denied except as charged.

Request No. 24 is denied except as charged.

MR. HAWKE: Your Honor, for some guidance in summation, I think it would be fair to rely on statements your Honor made in charging the jury in the Koss case. That charge has been upheld. Of course, it's not my intention to discuss the law, but the reason for advising us in advance is so that we can prepare our summations, and there are some statements your Honor made in your charge in the Koss case which I would rely on in my summation.

THE COURT: I have no idea what you are talking about. I took the Koss charge and it is 90 per cent in this charge, except as the facts have changed it.

MR. HAWKE: Yes, sir. All right.

MR. GOULD: For the record, your Honor, may I reserve any exceptions to your Honor's charge until after I hear what you have charged.

THE COURT: Obviously. You are given an opportunity after the charge is made to put on the record any exceptions to the charge.

MR. GOULD: Thank you very much.

* * *

* * *

THE COURT: You may proceed.

MR. WALKER: Thank you very much, your Honor.

May it please, your Honor, Mr. Gould, Mr. Hawke, Mr. Jackson, ladies and gentlemen of the jury:

At the outset let me thank you for your attention in listening to the evidence in this case. I think you have been most attentive and from observing you I am sure there isn't much that has passed your careful attention and your careful scrutiny.

You I am sure realize by now that this case, although we started off discussing securities and underwritings and so forth, is not really a very complicated case. The issues are sharply defined and straightforward. The questions for you are was there a conspiracy and scheme to manipulate the price of Automated Information stock, and I don't think there is really much dispute about that, secondly, did Mr. Weisman and Mr. Lassoff join in that scheme with knowledge of its objects, and thirdly, did they act to further its goals in some way.

Now, the Government submits that it has proved beyond any question that Weisman and Lassoff, both with knowledge, joined this scheme and acted to further its goals. The Government has proven it, we submit, not only through Mr. Hellerman, and I will have plenty to say about Mr. Hellerman, but also through the other witnesses in this case, and also through the circumstances of logic which compel a strong inference of their guilt.

So it's circumstantial evidence as well as direct evidence that the Government relies on, and I will go into that in a minute. It's Hellerman, but it's more than Hellerman, it's other witnesses that the Government has put forward here and which have testified as to the guilt of these defendants.

You have observed the witnesses as they have testified. It's for you to judge, of course, which witnesses were candid, straightforward, tried to answer every question, which witnesses were under intense cross-examination and how they responded, and which witnesses dodged, deceived, perhaps hedged, held back.

It's the Government's position that Samuel Weisman in this case was less than candid to you, that he wasn't coming forward with the full story in this case, and you can use your common sense and your observations to reach that same conclusion, we submit.

Now, the evidence in this case I will review with you in detail in a few minutes, but first let me just say a few words about some of the things that were said by the defense lawyers in their summations. There were many statements made by Mr. Gould and Mr. Hawke during the course of their summations that I did not agree with. You noticed that during the rest of the trial I used to jump up occasionally when I disagreed with what they had to say. Well, I didn't jump up during summation because at the time of summation it is the lawyer's opportunity to address the jury and to marshal those facts which he believes are relevant to the jury's considerations and helpful to them.

Now, I didn't because it was their turn to sum up. Now that it's my turn to sum up we have a sort of unwritten agreement that there will be no interruption. But that does not mean for a minute that I agreed with everything they said. In fact, I disagreed with most of it.

Now, at the outset of this case I said that it was an important case and I submit to you it is important. It's important to the defendants and it's important to the Government. It's important to the Government because the Government is charged with the responsibility of enforcing the Federal securities laws. It's the Government's responsibility to see that these laws are enforced so that crimes are not perpetrated on the public through the sale of securities and through the manipulation of securities in the market.

A security is not like a head of lettuce that you can go to the store and examine and purchase and know what you are getting because when the public buys a security they are buying a certificate of stock and it is a gross deception onthe public if a person buys stock not realizing that it has been rigged up or manipulated up in price, and that is the thrust in this case of what the purpose of this prosecution is all about.

The Government is charged with protecting the small investor, the innocent investor, from those who knowingly participate in fraudulent activities designed to manipulate the price.

Now, it's your duty to decide the facts. It will be the Court's duty to give you the law and present the law to you and you can apply that law and reach a conclusion on the facts here.

A trial is not a game, despite what we see on television. It is a search for the truth. It is an opportunity in our system for the jury to search out through the maze of facts that is presented to us what the truth is in a given case and to act on it.

I submit to you that the truth in this case, as will be demonstrated to you and as I will point out to you when I review the evidence with you, leads to only one conclusion, and that is the conclusion that both defendants are guilty as charged here.

Now, how do you reach a verdict. Well, you consider the evidence against the defendant, that is, the exhibits and the testimony. You don't do it on the basis of speeches by lawyers and you don't do it on the basis of supposition. You do it on the basis of hard evidence and inferences than you can draw from the evidence.

Now, in considering the evidence you are going to use your intelligence and your common sense. There is an old saying that the members of a jury do not leave their common sense at the doorstep of the Court House. You bring your common sense right in with you. You sift the facts, you weigh the facts, and then you reach a consensus as to what the facts show.

You cannot decide a case, ladies and gentlemen, I submit to you, on the grounds of bias or sympathy. It is not right that any case be decided on the grounds of sympathy.

Now, I would be less than human and I think you would be less than human if you did not feel some sympathy for the defendants in this case or for any defendant, for that matter, in this Court House. But it would be unfair to the public and unfair to other people involved in a case if sympathy were to govern your decision or emotion. No, you have sworn on your oaths to decide this case On the basis of the evidence and on the facts. I am sure that that will be the basis for your decision in this case.

Similarly, it's not going to be your concern as to what sentence there may be in this case. That is a matter solely for the judge. That is a matter that his

Honor, Judge Metzner, has great experience in and will deal with appropriately when the time arises.

Now, Mr. Zardus you know entered a plea of guilty in this case. You don't decide this case on the basis of the fact that another man entered a plea of guilty, but on the other hand, you may consider his guilt in determining the guilt of other defendants in so far as it has a bearing on that as was demonstrated in his testimony.

MR. GOULD: I am going to object to that, your Honor.

THE COURT: Sustained.

MR. WALKER: You take --

THE COURT: The jury will disregard the last remark of Mr. Walker.

MR. WALKER: Very well, your Honor.

We have in this case, ladies and gentlemen of the jury, defendants who occupy by their professions positions of trust in our society, a broker and a lawyer. I submit to you that when such men turn dishonest the repercussions have a wider impact than they would under normal circumstances. There is nothing sacrosanct, ladies and gentlemen, about the fact that a man wears a suit and a tie when he commits crimes. He is just as capable of inflicting harm on our society as a blue-collar worker or as any othe

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individual in our society and often his crimes are more serious because they are enacted with knowledge and with intelligence and with direct abuse of the trust that others have placed in him.

It's the pride of our system that the law applies equally to the rich as well as the poor, to the powerful as well as the weak, and ladies and gentlemen, if you find these men guilty on the evidence In this case you should not hesitate to convict because of the fact that they happen to be lawyers or brokers.

Now, the defense lawyers argued many things in this case, but they did not discuss the key evidence that you have to decide in this case. They stayed away from it because they know that if you focus on the true facts and the issues in this case the evidence points to the guilt of their clients.

In this case there was different kinds of evidence presented to you. There was direct evidence and, I submit, circumstantial evidence. Let me just pause for a minute there and explain to you what I mean by direct or circumstantial evidence.

Direct evidence is simply testimony of a witness who testifies from the stand and says what he saw took place at a given time and testifies directly as to

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those events.

Circumstantial evidence is a situation where a person states or where evidence is produced which creates inferences which so logically flow from those facts that a conclusion can be reached. Let me give you an example.

Suppose you have a young boy and this boy is in the kitchen and you tell this boy that you don't want him to eat any of the jam that you have in the kitchen which is in a jar and you leave the kitchen and while you are out of the room you hear a crash and you go back in and you see the little boy sitting there, the jar is broken on the floor, and he has jam on his clothes and on his face. You weren't there to directly observe what took place. However, you do know for a fact that that boy disobeyed your orders and ate some of that jam.

Now, that is proof by circumstantial evidence, and I submit to you, ladies and gentlemen, that on the circumstantial evidence in this case these defendants have jam all over their faces.

The defense lawyers, I submit to you, threw up various smokescreens designed to cover up the key evidence in this case, and it's important, we submit, to clear the air of this smoke so that you can consider the evidence.

First of all, they sought to put on trial everybody except their clients. Well, it's their clients who are on trial here, and you must consider the evidence as it focuses on their clients.

Now, they sought to try Michael Hellerman. Well, he was a natural because he had been involved in criminal conduct in the past. They needn't have wasted their time. The Government did not put on Hellerman to say that he was pure, to say that he had always been an honest man. They put him on because he was involved in criminal activity in the past, he was the man who was in a position to testify about criminal activity.

Now, the Government doesn't condone what Mr. Hellerman did for one minute. But the Government has to use witnesses who are on the scene. We have to take our witnesses as we find them. We can't put on the type of person that we would like to in every case because very often a person like that wasn't there, wasn't participating in the crimes, and doesn't have the knowledge or the ability to testify about what happened.

Mr. Hellerman, we submit, despite his past conduct, which is of the most reprehsensible sort -- we agree with it entirely -- was the man who could testify as to what went on in this case, and that's why he was a

Government witness in this case.

But as I say to you, we don't rely simply on Mr. Hellerman. We rely on other evidence and other circumstances and witnesses in this case.

Let me say one more word about Mr. Hellerman. Mr. Gould and Mr. Hawke have suggested that Mr. Hellerman lied to you when he testified here and they mentioned the fact that he had this arrangement with the Government, which is an exhibit and which is in evidence and which I read to you during the course of the trial. I submit to you that far from Mr. Hellerman having a motive to lie to this jury, he has every motive to tell the truth now, because he knows that if he doesn't tell the truth the world is going to come down on his head, and therefore I submit to you that Mr. Hellerman is very careful to tell the truth and he must be careful to tell the truth, because he has no interest in acting otherwise.

I submit to you that Mr. Weisman, who took the stand, has an interest to lie. Mr. Weisman has an interest to conceal the facts from you in order to avoid the consequences of his conduct. I submit to you that when Mr. Weisman testified here it wasn't just a lack of candor, that Mr. Weisman dodged and weaved and concealed and, when necessary, he stonewalled it. He kept the lid on what he

did in order to try to fool you into believing that he was innocent of this transaction.

For instance, Mr. Gould made such a big deal during the course of the trial over the fact that at one point in his testimony Mr. Hellerman when referring to the meeting at the Americana Hotel was asked a question about where the proceeds went and he said to that "Yes, sir," the transcript said.

On redirect I showed him the transcript and it was quite obvious that the answer should have been "No, sir" because the next words were "You didn't?"

It is that kind of cross-examination and that kind of impression that has tried to color the defense approach in this case.

That is the kind of smokescreen that we submit has tried to keep you from the true facts and the evidence in this case.

Similarly, Mr. Gould on cross-examination of Mr. Hellerman tried to make a big deal out of the fact that he had entered general denials in pleadings that occurred in cases. You heard a witness this morning --

MR. GOULD: Your Honor, I must object to this.

THE COURT: Overruled.

MR. WALKER: You heard a witness this morning

say in effect that a general denial is a legal device which is designed to put facts in issue in a lawsuit.

MR. GOULD: I object to this, your Honor. That is not what the witness testified.

THE COURT: Overruled.

MR. WALKER: I submit to you that again that is the kind of smokescreen that the defendants are putting up in this case to try and keep you from the evidence.

Now, I submit to you that throughout this case there has been key corroboration of Mr. Hellerman's testimony. You recall Mr. Hellerman's testimony concerning the first Cohen meeting with Mr. Lassoff present, Mr. Cohen and Mr. Hellerman, and Mr. Hellerman stated that when he went in there Mr. Cohen was seated behind his desk and Mr. Lassoff and Mr. Hellerman were in front of the desk.

Then I asked Mr. Cohen that. Mr. Gould objected. "Do we need this richness of detail," he asked.

I submit to you at that time, when I asked Cohen that question, Cohen corroborated Mr. Hellerman right to the letter. He stated that he was behind his desk and the other two were seated across from him, just as Mr. Hellerman had said it.

Now, Mr. Gould says that Mr. Hellerman is in

here falsely implicating Mr. Lassoff and M.r Weisman. But why? He barely knew Lassoff, and Weisman, he knew Weisman well, but Weisman and he had settled their differences in 1972.

They suggested Hellerman was out to get Weisman and Lassoff. If so, I suggest to you why didn't he do a better job of it.

On cross-examination Mr. Hawke brought up an interesting point. He asked Mr. Hellerman whether or not Hellerman recalled a meeting on May 3rd between Weissman, Lassoff and himself. He had not testified to it on direct. And he did say, "I couldn't swear to it, but there might have been such a meeting."

I submit to you if Mr. Hellerman was out to get these men he would have come right out and said it, he would have said it on direct.

I submit to you that Mr. Hellerman testified carefully and only to those events that he was sure of, not to events that he wasn't sure of or that he had an imperfect recollection of.

I want you, ladies and gentlemen of the jury, to compare Mr. Hellerman's testimony with the testimony of Weisman. Weisman is an attorney. He is a man who was paid fees in his lifetime to attend to details, to remember

details, so that he could protect the interests of his clients. He has had 40 years experience or many years experience at this. He has to recall events. He has a job to do that demands that. Gosh, if he doesn't have the memory when he starts off in his practice he had better develop it if he wants to earn a living being a lawyer or he won't be able to conduct a practice properly.

You recall my cross-examination of Weisman, how many times he didn't recall, how his testimony changed from the grand jury, how it shifted right while he was on the stand. I submit to you that Samuel Weisman in this case stonewalled it. I submit to you that he tried to lie his way out of this one and he tried the same deceptions on you with the same criminal intent that prompted him to enter this scheme in the first place.

Not only was Weisman contradicted in important respects by every other Government witness in the case, but his testimony was inherently incredible. It must have been apparent to you that this man was not telling the truth.

Now, each defendant put on character witnesses. I suppose that's their defense, to pull someone in from the street to get up there and say yes, this man has a good reputation in the community.

You noticed that many times I asked these witnesses when they testified "Do you know anything about the facts of this case, do you know what the charges are here, do you know what led to the charges here?" Not one of them knew what this case was all about. They came in here to tell us what the street gossip was, and I submit to you that that was not very helpful to you in deciding this case.

Certainly a broker or a lawyer in New York City is going to find somebody to come in here to say that these people are okay. I submit to you that that is not evidence in this case which is significant for you to consider at all. You must focus on the facts of this case and the evidence that came to you in this case from the witnesses who knew about the case, who could testify about the facts.

Similarly, I want to bring up another thing to you that could trouble you to some extent. Mr. Hellerman in testifying here freely admitted that once the Automated deal was over he talked Mr. Weisman into giving back the $7000 or $6900 that he had given him as a cash guarantee. All that establishes is that Mr. Hellerman was continuing in his crooked ways at that time, and that is not an issue in this case. If one thing is starkly clear it is the fact that Mr. Hellerman all through this time was engaged

in a life of crime. The only thing it establishes further is that in fact there is no honor among thieves.

Again, they argue that the scheme was dead at the time of the may 16th meeting. Well, I submit to you that the scheme was very much alive, and it's the testimony of Zardus and the testimony of Hellerman and the fact that when Zardus testified before the SEC it was late June, and all of these facts make it crystal clear that a man named Kolbert and a man named Adlman were paid off to continue the manipulation.

MR. GOULD: I object to this, your Honor. There is no such proof.

THE COURT: Sustained. There is no proof in this record of that.

MR. WALKER: I believe Mr. Hellerman testified to it, your Honor.

THE COURT: I am sorry. There is no proof in this record of that.

MR. WALKER: The testimony is that Atlantic Securities became involved after Interstate Equities and that Atlantic Securities was active in this case following the Interstate Equities situation and that the manipulation continued.

Now, the defendants argue that because Mr.

Frohlich, who discovered from Mr. Lassoff that Hellerman was behind a wooden ticket, had gone to the SEC during the scheme that therefore the scheme couldn't progress any further. I submit to you that that is a fallacious argument. The SEC can know a little fact about a case, can know a fact here or a fact there, but not be able to put together the entire picture. As you can tell, this was a complicated scheme involving many defendants exctending over many months, and it was certain ly possible and, indeed, happened that the scheme could continue on even though a certain point or two points of it had been brought to the attention of the SEC.

I submit to you also that whether or not Mr. Lassoff knew about the fact that Frohlich had gone to the SEC, nothing was said at the meeting, nothing was said at the meeting on May 16th concerning the fact that Frohlich had gone to the SEC. Was Lassoff playing both sides against the middle at that time, trying to save his job with Frohlich and at the same time make money in this deal if the scheme went through? I submit to you that that is a fair inference that you may draw in this case.

Mr. Cohen testified. Now, Mr. Cohen I submit to you was very friendly with Harold Lassoff and was still a friend of Harold Lassoff and he got on that stand,

frankly, kicking and screaming to avoid testifying against Mr. Lassoff. He was not a very cooperative witness for the Government.

THE COURT: I am sorry. I didn't get any impression that he was kicking and screaming when he got on the stand.

MR. WALKER: Very well, your Honor. That may be a bit of zeal in summation.

I submit to you that he was Not being completely candid in this case with you.

MR. GOULD: I object, your Honor. He was the Government's own witness.

THE COURT: Sustained.

MR. WALKER: Because I submit to you that Mr. Cohen did not -- and this is where you have to use your common sense -- that he did not admit the fact and didn't want to admit the fact that he was splitting profits with Hellerman in this case.

MR. GOULD: Your Honor, I regret the necessity to interrupt --

THE COURT: He denied it.

MR. WALKER: I am aware of that, Your Honor.

THE COURT: Are you saying he lied, the man you put on the stand lied?

MR. WALKER: I am saying --

THE COURT: There was no indication that he was a recalcitrant witness.

MR. WALKER: Your Honor, may I go forward?

I ask the jury and I suggest that you can draw your own conclusions from the facts in this case. Is it conceivable that Mr. Hellerman would put up half the cash to anyone and not get half the proceeds in return?

MR. GOULD: If your Honor pleases, he persists in arguing what your Honor told him not to.

THE COURT: You put him on the stand. You heard his story. There was no indication that you thought your witness was lying when you put him on.

MR. WALKER: Mr. Frohlich I submit to you warned Mr. Weisman that Hellerman had problems and received in return the following reply:

"I know Mr. Hellerman has problems, I know Mr. Hellerman has problems, but I can hold the stock, can't I, I can buy from anyone I want, can't I?"

Thus Mr. Weisman did not sell the stock at that point.

Zardus testified. I submit to you that, as Mr. Gould pointed out, when Mr. Zardus testified before the SEC Mr. Zardus was scared and was trying to limit his

participation, but I submit to you, as he mentioned, that he was sentenced after he testified in the earlier Koss trial and that he testified here fully and candidly and truthfully as to what happened in this case, and I ask you further to consider Mr. Zardus' testimony concerning the May 16th meeting. Mr. Zardus testified that at the May 16th meeting Weisman and Lassoff were present along with Murray Taylor, Mrs. Hellerman and Mr. Hellerman, and at that meeting they discussed the Frohlich problem and they discussed also getting Cohen to keep from selling his stock.

I submit to you that if Mr. Zardus didn't recount verbatim what Hellerman said about that meeting, he certainly recounted it in substance, and the only thing that the differences between their testimony shows up is that they didn't get together and make up a story. I submit to you any differences between Mr. Zardus' testimony and Mr. Hellerman's testimony are understandable in view of the fact that, as you know from your common sense, witnesses to an event recall the things that stick in their mind, and I submit to you that these witnesses were testifying candidly and truthfully as to the May 16th meeting according to their best recollection.

Now, at the outset in the opening statement I

said to you that two of the key issues in this case were who had knowledge of the scheme, and I submit to you that the proof establishes beyond any question that Lassoff and Weisman had knowledge of this scheme, and secondly, I mentioned to you that you could ask yourselves who was doing business with a man like Hellerman. The reason I asked that is not because I think or the Government thinks that a man should be convicted simply because he does business with another man, but if he does business with another man who he knows to be involved in criminal activities, then I submit to you that he cannot come in here and say that he thought it was a perfectly legitimate deal, that that makes him incredible as a matter of fact.

For a man to get on the stand and say that he thought a deal was 100 per cent legitimate, as Mr. Weisman did, when he had known Mr. Hellerman for 40 years, known him since his youth, close friends of his father, he had been an attorney who represented him in a prior matter before the State Attorney General, his son had represented him in a criminal matter in the mid-60's involving stolen bonds, when in some other year he knew that his son had received Belmont or Imperial stock in return for a criminal representation of Mr. Hellerman --

MR. GOULD: Your Honor, I object to that. That

was stricken.

THE COURT: No, Hellerman so testified. That wasn't stricken.

MR. GOULD: The transaction with the son was stricken. No knowledge of it was brought home to Mr. Weisman.

THE COURT: Mr. Weisman didn't know.

MR. GOULD: He just said that Mr. Weisman knew.

THE COURT: He is saying that Mr. Hellerman testified to it, as I gather it.

MR. WALKER: That's correct.

MR. GOULD: I thought I heard him say Weisman knew it.

THE COURT: Go ahead.

MR. WALKER: If we look at the facts in this case then it's undisputed that Mr. Hellerman got control of Automated Information Systems and using Zardus and Taylor and others began to manipulate the market and controlled the box in this stock, and you know from Mr. Hellerman's testimony that the box is control of the shares of stock, and then came the actual rigging of the stock.

It's the Government's position that it became very clear from Mr. Hellerman's testimony that this is the way the rig would work:

He would find people who were willing to buy the stock and offer them cash guarantees for half of the purchase price in return for splitting the profits later on, when the stock was sold. After he put people in on a round of deals like this on the stock he would then be ready to go and promote the next round of deals and he would take the money that he had and promote the second round of deals and when the first people sold out he would then use the half of the profits that he received to promote yet a further round of deals, and thus the box would be risen in price.

I submit to you that with regard to these various individuals that he dealt with we have heard of a range of them who had more or less knowledge about the overall scheme. It was not necessary, if the person was willing to follow Hellerman's instructions, for him to have complete knowledge of the scheme. But on the other hand, with some people he did impart that knowledge.

I submit to you that Cohen in this case did not have complete knowledge of this scheme because certain facts were concealed from him by Lassoff and by Hellerman, but I submit to you that the evidence shows that Weisman had knowledge of the scheme and that Lassoff had knowledge of the scheme.

Mr. Hellerman came to Mr. Weisman and explained the deal to Mr. Weisman and he told him that he controlled the stock. Weisman tells you that it was a legitimate deal and he didn't know or even suspect anything was wrong. But I submit to you that that is incredible and you can find that statement to be incredible and that he lied to you when he made that statement because the man had been deeply involved with Hellerman and Hellerman's family for years. He said ahat he knew Hellerman since his birth. He knew that Hellerman had been barred by the Attorney General in 1961, indeed, had represented him there, he knew that there was a stolen bond case in which his son had represented him in the mid-60's.

MR. GOULD: Your Honor, I object to this.

THE COURT: He knew he represented him in a criminal matter.

MR. WALKER: In a criminal matter. Very well, your Honor.

Mr. Weisman then told us about Imperial. Now, Mr. Hellerman said that when he went to Weisman he told Weisman that he had a deal for him, that he had Imperial, that he had control of the stock or he was getting control of the stock, and that he could make money in the stock.

Weisman himself admitted that he made $1300 in

a period of six weeks, which is approximately 50 per cent profit. When I asked him whether he thought that was a nice profit he first said no. Well, I think that you can find that 50 per cent in six weeks is a pretty nice profit when banks pay 10 per cent a year on debt.

Indeed, Weisman himself told you -- of course, he was denying that Hellerman ever recommended Imperial to him -- but he did tell you that a man named Henry Schultz had recommended Imperial to him, and that the evidence later turned out that Henry Schultz was in fact Hellerman's uncle.

I submit to you that by the time of October of 1970, when Hellerman and Weisman came down to the U. S. Attorney's office and Morvillo told them that Hellerman was up to his ears for stock fraud and that there was a securities matter involving Imperial, that at least by that time, at least by that time, we have definitive knowledge on the part of Mr. Weisman that Hellerman is a crooked stock manipulator. And yet that, ladies and gentlemen, is several months before the Automated deal, because that occurs prior to the Imperial indictment, which was in November of 1970, and we know that Weisman goes into Automated on May 3, 1971.

Now, Mr. Weisman also purchased Tabby's stock

and Hellerman told you that he recommended Tabby's to Sam Weisman at a time when they were friendly, when they weren't having a dispute, and that Sam Weisman put himself, his son and his secretary in the stock.

MR. GOULD: I object to that, your Honor.

THE COURT: He didn't put his son in. He recommended it to his son and the son said he would think about it.

MR. WALKER: Very well, your Honor.

THE COURT: Go ahead.

MR. WALKER: The Kelsey records were admitted into evidence, and your recollection controls in these issues of fact, but the Kelsey records were admitted into evidence, and these records show Samuel Weisman purchasing Tabby's International on November 20, 2000 shares at 2 for $4000, and turning around on December 2 and selling them out for $7,975, in effect doubling his money in a matter of days.

There is also proof in here as to what Herbert Weisman did on Tabby's and that Herbert Weisman --

MR. GOULD: I object to this.

THE COURT: Overruled. It's in evidence.

MR. WALKER: Herbert Weisman purchased 3500 shares at 2 and sold out the 3500 shares at 4. His pur-

chase was on November 22 and his sale was on December 2, an immediate take-out at practically double the price, from $7000 to $13,956.

I submit to you that these men were not buying for long-term investment, these men were buying because they knew there was a deal. The records alone prove it.

MR. GOULD: If your Honor please, I must object.

Who are "these men" that he is talking about? Herbert Weisman isn't on trial in this case.

THE COURT: No, but the record shows he bought the stock at that time. The jury can draw an inference from that if it wishes, Mr. Gould.

Go ahead, Mr. Walker.

MR. WALKER: Thank you.

Then we have the fact that Mr. Weisman"s secretary, Rose Maver, purchased on November 26 200 shares at 2 and sold out on December 2 at $847.50. I submit to you that it's more than a coincidence that all three gentlemen sold out on December 2.

THE COURT: One is a woman.

MR. WALKER: Excuse me. Two of the gentlemen sold out on December 2 and Rose Maver sold out on December 2 and all of them nearly doubled their money.

I submit to you that this document here estab-

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lishes knowledge on the part of Sam Weisman and fully corroborates Michael Hellerman in this case.

MR. GOULD: If your Honor please, knowledge of what? There is no claim that this was a criminal transaction, That there was anything wrong with it.

THE COURT: Hellerman has testified that it was.

MR. GOULD: But not that any knowledge was brought home to Mr. Weisman or anybody else.

THE COURT: He did, Mr. Gould, and it will be for the jury to remember the testimony.

Go ahead, Mr. Walker.

MR. WALKER: Mr. Hellerman testified that he told Mr. Weisman that he was an undisclosed principal in Kelsey Company and in effect that Weisman knew that he had been barred by the SEC.

Mr. Weisman admitted on the stand that throughout this period of time of Tabby's and Imperial and so forth Murray Taylor was up in his office, that Hellerman was up in his office and Kelsey was up in his office, but he didn't know what they were discussing. I asked him, "Were they discussing securities?"

He said, "I don't know what business we were discussing at that time."

8 I submit to you that that is a typical example

of Mr. Weisman's lack of candor, of Mr. Weisman's deception that he was trying to practice on you as he was trying to keep you from the true evidence in this case.

Don't recall, that seemed to be the testimony of Mr. Weisman. He didn't recall the details of the Chrislin matter. He didn't recall discussing those matters with Kelsey and Hellerman in the office.

Interestingly enough we have his testimony before the grand jury as brought out on his cross-examination concerning Belmont. Mr. Weisman was asked questions about Belmont and Hellerman testified that this was another crooked deal that he offered Mr. Weisman, Mr. Weisman turned him down. Mr. Weisman said that he didn't know there was a crooked deal but that he wasn't going to accept the deal anyway from Hellerman. He testified twice in the grand jury on the point and each time practically the same question was posed to him, have you ever heard of Belmont Franchising. One time he answered yes, the other time he answered no.

I submit to you that that inconsistency, diametrically opposed, is typical of the way Mr. Weisman testified in this case.

Perhaps the grossest deception perpetrated by

Mr. Weisman in this case on you had to do with the fact that he didn't know that Mr. Hellerman had been indicted in Imperial when the indictment was filed on November 19, 1970. I submit to you is it probable that an attorney who had known the Hellerman family for all these years, where they shared problems together, where they were close friends, where this man had represented Mr. Hellerman at the U. S. Attorney's office on a prior occasion prior to the indictment, didn't know that Mr. Hellerman had been indicted that fall in Imperial?

In fact, I believe his testimony was at the close of his cross-examination that he did learn at some point in the publicity that Mr. Hellerman had been indicted with John Dioguardi in that matter. That testimony I submit to you was the height of improbability. It was a practiced deception on you.

So that we have it on May 3, 1971 that Mr. Hellerman is not dealing with a stranger, he is dealing with a man well versed and schooled in Hellerman's ways, a man who has made profits through Hellerman on prior occasions and who wants to make a profit again. I submit to you that those facts you may find in this case fully corroborate Mr. Hellerman's version of what happened during these two weeks in May which are the focal point

of this case for you.

Weisman bought 3000 shares. He didn't know why he bought 3000 shares. I say that is a whopping investment, ladies and gentlemen, for a man who didn't know anything about the earnings of the company, who didn't even ask, who didn't know anything about the financial condition of the company, who has told the grand jury that he didn't know what the company did, he couldn't recall what the company did for its business.

And he admitted to you that he told the grand jury that he assumed that Mr. Hellerman would take him out at the right time. I submit to you, of course, he knew that Mr. Hellerman would take him out, just the way Mr. Hellerman had taken him out in other stocks that he had gone in on in the past.

You can ask yourself why he would assume that Hellerman would take him out. He would assume that Hellerman would take him out, ladies and gentlemen, because he knew that there was a rig in this case. That is the kind of circumstantial proof, apart from what Mr. Hellerman testifies, apart from what Mr. Zardus testifies, that kind of admission coming from the lips of Mr. Weisman is the kind of circumstantial proof that says wonders about this case and establishes that that along with all of his prior

knowledge of Hellerman's dealings which have been pointed out to you establishes that he entered this scheme with both feet in order to make a profit.

On page 948 of the testimony I asked Mr. Weisman the following question:

"Q Did he ever tell you when he thought you should sell?

"A No, he did not.

"Q Did you assume that he would tell you that

"A I didn't assume anything like that."

Then I read the following questions and answers that he had given in the grand jury:

"Q Did he, meaning Hellerman, ever tell you when he thought you should sell?

"A Well, I assumed he would tell me when to well. I don't know if he told me or not."

He told that to the grand jury and I submit to you that that is a very powerful admission in this case, because why, if it was a straightforward investment, would he wait for Hellerman to tell him to sell. He would only do that because he knew that the stock was being manipulated and rigged and that Hellerman's directions were essential to the operation of the scheme.

Mr. Hellerman testified here that Mr. Weisman

guaranteed Cohen and Lassoff in this deal, he guaranteed Lassoff, and that Cohen was Lassoff's customer. I submit to you that we have powerful circumstantial proof of the fact that Weisman guaranteed Cohen and Lassoff, because it was that guarantee, that criminal guarantee conveyed between Weisman and Hellerman, that made Weisman go out to the house two weeks later on May 16th. It made Weisman go all the way to the north shore of Long Island to keep Cohen in the stock when he wanted to go to the south shore. The testimony was that he was on his way to the south shore and instead he went up to Kings Point, where Mr. Cohen lived.

I submit to you that this action by Weisman establishes that there was this guarantee that Hellerman testified about in this case and that Weisman had guaranteed the cooperation of Lassoff and Cohen in this matter.

When Mr. Cohen purchased stock and testified that he was nervous about the cash, it was highly unusual to see the cash and he was scared and upset about it, and that he found that to be somewhat unusual, remember that Mr. Cohen was not fully apprised of the details of the scheme.

When I asked Mr. Weisman about the cash I got a pretty different response. He said nothing unusual at

all abou it. It was the first time it had ever happened, but he didn't see anything unusual about it, indeed, it was a wholly legitimate deal. I submit to you that that points up the fact that Mr. Weisman was not being candid with you in this case.

Now, Mr. Lassoff was nervous throughout this transaction. He kept calling back Hellerman in order to complain about the fact that "Gosh, what's Frohlich going to do now, am I going to make my money, shall we go to the SEC?"

He was skitterish about the whole thing. On the one hand he was worried about holding his job but on the other hand he was anxious to make the money that he thought he could make inthis transaction. I submit to you that it is improbable to suggest that Mr. Lassoff wasn't going to get anything out of this deal. He had many things to gain. First of all, he could please Cohen, who was a customer of his of long standing and whose business he needed because he was in dire financial straits.

Secondly, you may find that he hoped to get a percentage of the profits from Mr. Hellerman's testimony in this case in this deal and that's why he stuck in it for as long as he did.

And thirdly, I submit to you that he needed the

money and he needed the commissions in this deal. These are the reasons why Mr. Lassoff stayed with this transaction.

What other explanation do we have for the effort by Weissman and Lassoff to keep Cohen from selling his stock? It is that event probably more than any other in this case that establishes beyond question, and it is not disputed in this case, it's not disputed by Mr. Weisman when he took the stand that he went out to Cohen and he spoke to Cohen, it's not disputed that Cohen as a result of that kept his stock --

MR. GOULD: I object to that, your Honor.

THE COURT: Overruled.

MR. GOULD: It is disputed.

THE COURT: It's for the jury to determine.

MR. GOULD: It's not --

THE COURT: Go ahead, Mr. Walker.

MR. WALKER: I submit to you that Mr. Lassoff slipped on the 7th in telling Mr. Frohlich that Hellerman was behind a wooden ticket, that he was skitterish and nervous at that time and that he told Frohlich about it, and Frohlich thereon called Weisman, Frohlich thereon called Cohen, Cohen became nervous as a result of the call from Frohlich, and it was that fact that prompted the meet-

ing on May 16th, that caused these people to want to get together to be able to hold Mr. Cohen in the stock, because, ladies and gentlemen of the jury, I think you can see that if Cohen had sold that would have been the end of the scheme. The 3000 shares would have hit the market and the box would have been broken and there was no way to keep the manipulation alive at that point.

I submit to you that Mr. Frohlich's testimony here that he called Weisman and he called Lassoff after he learned about the lame wooden ticket or that he called Weisman and he called Cohen after he learned about the lame wooden ticket is corroboration of Mr. Hellerman, because Mr. Hellerman, who never had any contact with Frohlich in this transaction, testifies as to what he learned about Frohlich's calls from Weisman and from Lassoff, and the testimony there was essentially that Frohlich told Weisman that he knew that Hellerman had problems and that he shouldn't be buying the stock from that man and that he didn't want to have his firm responsible for the sale of that stock to Weisman, and Weisman in effect said, "I can buy from whoever I want to. I know he has had problems."

Indeed, Weisman later on told Cohen when he was at his house that he knew Hellerman had been accused but

he had not been convicted.

Mr. Weisman, I submit to you, knew full well that Hellerman had been indicted in the Imperial case, despite his denials to the contrary.

Now, an interesting thing happens at Cohen's on May 16th. Weisman tells Cohen about Hellerman and he says he has been accused, but he hasn't been convicted, he is just a big bad boy and a smart businessman, or words to that effect -- your recollection will control -- and that there is nothing wrong with the fact that he recommended the stock.

I submit to you that those are remarkable statements coming from a lawyer who has known the Hellerman family for all of these years and known of Hellerman's problems and been involved in the Hellerman transactions as testified to in this case and as established by this exhibit here, this ledger book. I submit to you that that was an outright deception and it was the deception that was practiced in this case in order to keep Cohen in the stock as Hellerman and Taylor and Zardus had agreed that Weisman and Lassoff should do that very day.

MR. GOULD: I object to that, your Honor. There is no proof that there was any agreement by those people that they should do that.

THE COURT: That is Hellerman's story as to what they were supposed to do and Zardus' story.

MR. GOULD: Not Taylor --

THE COURT: I will leave Taylor out if you wish. The others so testified, Mr. Gould.

Go ahead, Mr. Walker.

MR. WALKER: Thank you, your Honor.

I submit to you we have the testimony of Lassoff's concern during the week of May 16th, before May 16th, at Al Cooper's restaurant, when he expresses to Hellerman his nervousness about the whole situation and Hellerman asks him to keep Mr. Cohen in the stock for a little longer and explains to him "Look, you can't have it both ways. Sure there is a big problem now, but you wanted the money, in effect, and this is the deal the way it stands," which led to the May 16th meeting.

It's interesting, ladies and gentlemen, to focus on Mr. Weisman's explanation of why he went to Hellerman's house on May 16th. Mr. Weisman says he went to Hellerman house because Hellerman wanted to tell him something about the company. I submit to you that there he was practicing a deception on your, ladies and gentlemen of the jury, because in his grand jury testimony he admitted that Mr. Lassoff had called him and said that they were going out

there to discuss the Cohen purchase of stock and not just the company.

And how incredible is it, I submit to you, Mr. Weisman's testimony that on a Sunday, May 16, 1971, he would travel all the way to Hellerman's house for breakfast, and I believe there is testimony in the record that he had not had breakfast with Hellerman before, they hadn't met before, just to discuss the company? That's his version of the facts and I think you can judge for yourselves that it was false and that he was trying to fool you when he gave you that testimony.

The pages in the testimony are pretty clear on that point. Page 971, he is asked the following question.

"Q Did he ask you to come out because there was some sort of problem with Automated Information stock?

"A No. He asked me to come. He wanted to discuss the company with Mr. Lassoff and myself.

"Q He wanted to discuss the company?

"A Wanted to talk about the company. I assume that."

Then a few minutes later on cross-examination the following questions and answers were read to Mr. Weisman:

"Q Did you hear any information to the effect that Mr. Cohen wanted to sell his stock prior to Mr. Hellerman's inviting you to breakfast?

"A No, I don't recall that I did.

"Q To the best of your recollection?

"A To the best of my recollection, I don't remember now what Mr. Lassoff told me. I know he called me and told me he was asked to come out to Mr. Hellerman's home for breakfast. I says, 'Why did he want you to come out?' He says in connection with the purchase of the stock by Cohen or from Lassoff's telephone calls.

"Q Did Mr. Lassoff tell you it was in connection with the purchase of the stock by Cohen that you were supposed to go out to Hellerman's house?"

He says on trial:

"A I don't recall anything further. Whatever I testified there is the truth."

I submit to you that to you, ladies and gentlemen, he was trying to tell you he was just going out to discuss the company. To the grand jury he at least admitted he was going out there to discuss the Cohen purchase of stock.

I submit to you in conclusion that there is no

rational innocent explanation for the fact, which is undisputed in this case, that Weisman and Lassoff went to Hellerman's house for breakfast on May 16th and then Cohen's house and told him what Cohen testified to here, that it was a good company and Weisman was a conservative investor and so forth.

The only explanation for Weisman and Lassoff to go out of their way to Cohen's house that morning was to further this scheme and to further this conspiracy as alleged in the indictment.

Indeed, Weisman didn't even know Cohen and had never laid eyes on him before. Why conceivably would he go to his house on a Sunday morning to give him the pitch that he gave him on that day?

I submit to you that the one thing that Lassoff and Weisman knew that they didn't tell Cohen was that this was a rig from beginninng to end and that they were informed of it and that they acted with full knowledge of its purposes and its scheme. It was just like the Imperial case and just like the Belmont case, it was just like the Tabby's case.

MR. GOULD: Your Honor, I object to that.

THE COURT: Sustained.

MR. GOULD: There is no proof of anything like

that.

MR. WALKER: I submit to you that you may find from this record and from the testimony of Mr. Hellerman that the manipulations in these other deals were explained to Mr. Weisman.

MR. GOULD: I object to that and I move for a mistrial on the grounds --

THE COURT: Overruled, Mr. Gould. Mr. Hellerman said that is what he said. If the jury believes it, fine; if they don't believe it, fine.

MR. WALKER: From the evidence in this case, ladies and gentlemen of the jury, I think you are able to conclude now that the Government has prove its case by circumstantial evidence and by direct evidence, the testimony of Mr. Hellerman, and by further direct evidence, the testimony of Mr. Zardus, that the story fits with the testimony of Mr. Frohlich, that any inconsistencies between Hellerman and Zardus were simple failures of recollection and only go to establish the fact they couldn't have gotten together to cook up this story, that they were acting as witnesses best testifying to their recollection of the events in question.

We submit that the testimony establishes beyond any question that Weissman and Lassoff entered this scheme

with full knowledge of its objects and acted to further it and that their guilt is clear.

Ladies and gentlemen, let me close by reminding you of your oaths in this case. Your oaths are to give a true verdict without sympathy or favor. On behalf of the Government I ask you to return a verdict as to each defendant of guilty on the counts with which that defendant is charged.

* * *

* * *

(Metzner, J.)

Mr. Jackson, ladies and gentlemen of the jury:

We have now reached a point in this trial when you are about to enter into your final function as jurors, which is, of course, one of the sacred duties of citizenship.

You have given careful attention to the evidence during the course of the trial and I am certain that you will conduct your deliberations in the same fine spirit that you have so far displayed and with impartiality and fairness reach a just verdict in this case.

In our court system, the functions of the judge and the functions of the jury are clearly defined. It is my duty to instruct you as to what the law is. It is your duty to accept the law as I state it to you.

Just as I am the exclusive judge of the law, so

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you are the exclusive judges of the facts. You alone determine the credibility of the witnesses and the weight, effect and value which should be given to their testimony.

It is up to you to determine from the evidence you have heard what the facts are in this case, and from those facts decide whether defendant has violated the law.

This is a criminal prosecution in which the Government is one party and the defendants are the others. The fact that the Government is a party entitles it to no greater and to no lesser consideration than any other party. It is entitled to the same consideration that is given to the defendants, no more and no less.

This case must be decided within the scope of the charges against each defendant as contained in the indictment. But before discussing the law applicable to the charges of the indictment, let us consider some general principles which apply in every criminal case.

An indictment itself is not evidence. It merely describes the charges made against a defendant and may not be considered by you as evidence of the guilt of the defendants. Nor can the fact that a grand jury has found this indictment in any way detract from the presumption of innocence with which the law surrounds

defendant unless and until his guilt is proved beyond a reasonable doubt.

Each of the four counts which you will consider alleges the commission of a separate and distinct offense. It will be necessary for you to reach a verdict of guilty or not guilty as to each of the defendants separately on each of the counts of the indictment. You must consider and weigh the evidence separately as to each defendant on each count.

The fact that you may find one of the defendants guilty or not guilty of one of the offenses charged should not control or influence your verdict with respect to any other offense of which the defendant may be charged, or to a charge against the other defendant.

Similarly, the fact that other persons named in the indictment may have pled guilty to charges in the indictment is not evidence of the guilt of the defendants on trial here. And those pleas of guilty may not be considered by you in any respect in passing upon the guilt or innocence of the defendants who are on trial.

In addition, the fact that some of the defendants named in the indictment didn't testify and are not on trial here should not in any way enter into your deliberations on the guilt or innocence of the two

defendants who are standing trial.

As you have learned from the testimony, Michael Hellerman was not indicted by the grand jury, but was named only as a co-conspirator. The reasons why Hellerman was not indicted must play no part in your deliberations except insofar as it may be considered by you on the issue of his credibility as to the testimony he gave here on behalf of the Government.

Whether persons who may be involved with others in alleged criminal conduct should be indicted is a matter solely within the discretion of the United States Attorney and the grand jury. It should be obvious, therefore, that because someone is not indicted has on its face no connection with the guilt or innocence of someone else who is indicted.

Thus, you may draw no inference, favorable or unfavorable, either to the Government or to the defendants by reason of the fact certain persons were merely named as co-conspirators.

Finally, the charge against Harold Lassoff in Count 6 of the indictment has been withdrawn from your consideration. This disposition should not be considered and discussed by you, or influence you in any way in passing upon the guilt or innocence of either of the

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defendants on the counts in the indictment which are being submitted to you for your determination.

Each defendant has denied the charges in the indictment. By his plea of not guilty, each defendant has put into issue every material fact alleged in the accusation brought against him. Accordingly, the Government, having made the charge, has the burden of proving beyond a reasonable doubt each material element of each count of the indictment. This rule applies to each defendant individually as to each of the counts in the indictment. This burden of proof never shifts; it remains with the Government throughout the entire trial and during your deliberations as jurors.

A defendant does not have to prove his innocence. He is presumed to be innocent, and this presumption is overcome only when you reach a conclusion from the evidence that his guilt has been established beyond a reasonable doubt.

Now, what is meant by "reasonable doubt"? There is nothing mysterious about the term. It means, as the words themselves indicate, a doubt based upon reason and common sense which arises after a consideration of all the evidence. A reasonable doubt is a doubt which would cause reasonable persons to hesitate to act in matters

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of importance to themselves. It is not a vague, speculative, imaginary something, and a person may not be convicted on mere suspicions or conjecture.

On the other hand, a reasonable doubt does not exist merely because a juror does not wish to perform an unpleasant duty. A reasonable doubt may arise not only from the evidence adduced, but also from the lack of evidence.

A defendant may also rely upon evidence brought out on cross-examination of any of the witnesses who have testified on behalf of the Government. He may attempt to raise a reasonable doubt in your mind as to the existence of one or more of the essential elements of the crime without affirmatively presenting his version of all or any of the facts. This is so because the law does not impose upon a defendant a duty to produce any evidence. The law does not compel a defendant to take the stand and testify, and no presumption of guilt may be raised and no inference of any kind may be drawn from the failure of the defendant to testify.

Now, it is not necessary for the Government to prove the guilt of a defendant beyond any possible doubt. Proof is usually not a matter of mathematical or absolute certainty. In the nature of things, it cannot be, but to

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sustain a conviction there must be such proof as satisfies your reason as intelligent people beyond any reasonable doubt that a defendant is guilty as charged.

If you do not have any reasonable doubt of a defendant's guilt as to the material elements of the charge then you should return a verdict of guilty on that count.

On the other hand, if you do have a reasonable doubt of a defendant's guilt as to any of the material elements of the crime charged, then you must return a verdict of not guilty as to that count.

If the evidence is susceptible of two interpretations, each of which appears to you to be reasonable, and one of which points to the guilt of the defendant and the other to his innocence, it is your duty under the law to adopt that interpretation or conclusion which would admit of a defendant's innocence and reject that which points to his guilt.

This trial has been a relatively short one and you have heard the summations of counsel in which they pointed out the various portions of the proof on which they say you should rely to render a verdict in favor of their clients.

I see no reason to further detail the contentions of the parties or the specific proof to substantiate

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those contentions.

As you know, the charges in this case center on the alleged violations of the federal securities laws which were enacted by the Congress to protect the investing public in the purchase and sale of stocks and securities that are publicly distributed.

The defendants are charged with violating and conspiring to violate the Securities Exchange Act of 1934 which was enacted to regulate the national exchanges and the over-the-counter market.

The defendants are also charged with violating and conspiring to violate the mail fraud statutes enacted by the Congress.

The first count of the indictment which you will consider is known as the conspiracy count. This count charges that from on or about November 1, 1970, up to and including September 25, 1973, the date of the filing of the indictment, Theodore Koss, Koss Securities Corporation, Stephen Zardus, Robert Santis, Herbert Shulman, Steven Adlman, Robert Kolbert, Stanley Schwartz, Samuel Weisman, Harold Lassoff, Martin Roth, Erwin Layne, Irwin Hyman, William McGee, Stephen Hagler and Dan Anfang, unlawfully, wilfully and knowingly conspired with each other and with Automated Information Systems, Michael

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Hellerman, Murray Taylor, Murray Levine, Robert Angona, Interstate Equity Corporation and Atlantic Securities, and others to the grand jury known and unknown, to violate Section 10(b) of the 1934 Act and Rule 10b-5 of the Securities and Exchange Commission and Section 1341 of Title 18 of the United States Code. This latter section prohibits the use of the mails in furtherance of any scheme to defraud.

Section 10(b) and Rule 10b-5 make it a crime for any person, in the course of the purchase or sale of securities, to employ any scheme or device to manipulate the price of such securities, or to engage in a course of business which would operate as a fraud upon the purchaser of such securities.

I will describe each of these federal laws in more detail later on in this charge when I discuss the substantive counts of the indictment which charge the defendants with actual violations of these laws.

In essence count one charges that the defendants on trial, Samuel Weisman and Harold Lassoff, conspired with other defendants not on trial and co-conspirators to defraud brokers and individual investors in connection with the sale and purchase of the stock of Automated Information Systems, Inc.

Now, what is a conspiracy? It is a combination

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or agreement of two or more persons by concerted action to accomplish a criminal or unlawful purpose and one or more of the persons who are members of the conspiracy does any act to effect or further the objects of the conspiracy. It is a partnership in criminal purpose in which each member becomesthe agent of every other member and it is a crime in itself.

To prove a conspiracy here, the evidence must show beyond a reasonable doubt the existence of each one of the following material elements:

First, that the conspiracy described was formed and existing at or about the time alleged;

Second, that it was part of the conspiracy to do either or both of the following:

First, that the defendants and co-conspirators, in connection with the purchase and sale of securities, to wit, the common stock of co-conspirator Automated Information Systems, Inc., would and did, directly and indirectly, use means and instrumentalities of interstate commerce, such as the telephone and the mails, to use and employ manipulative devices and contrivances in contravention of Rule 10b-5 of the rules and regulations promulgated by the Securities and Exchange Commission, to which I have already referred.

Two, that the defendants and co-conspirators, having devised and intending to devise a scheme and artifice to defraud, and attempting so to do, would place and cause to be placed in post offices and authorized depositories for mail matter, and would cause to be delivered by mail according to the direction thereon, certain matter to be sent and delivered by the Post Office Department.

The third material element whichyou must find beyond a reasonable doubt is that a defendant knowingly and wilfully became a member of the conspiracy.

Fourth, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment at or about the time alleged.

Fifth, that such overt act was committed in furtherance of some object or purpose of the conspiracy as charged.

Now, as to the formation of the conspiracy, it is not necessary that there be proof that the participants met together and entered into a formal or written agreement, or that they directly stated among themselves what their object or purpose was to be, or the details of the plans or the means by which the purpose was to be achieved. Indeed, it would be extraordinary for members of a conspiracy to set forth all the actual details of their arrangements in

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a formal and written document.

When persons in fact embark together upon a conspiracy, much is often unexpressed; much is left to unwritten understanding.

Generally, such a criminal conspiracy is a matter of inference deduced from the acts and statements of the alleged conspirators.

As far as this first element is concerned, what the evidence must show in order to establish that a conspiracy existed is that the members in some way or other, positively or tacitly, came to a mutual understanding to engage in a common unlawful agreement to violate either the federal securities laws or the federal mail fraud statute.

In determining whether or not there was such an unlawful agreement, you may judge the acts and conduct of each of the alleged conspirators as a whole and the reasonable inferences to be drawn from such evidence.

The indictment alleges that the conspiracy commenced on or about November 1, 1970 and continued to about September 25,1973, the date the indictment was filed.

The Government, however, is not required to prove that the alleged conspiracy existed over the whole

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course of time set out in the indictment. It is sufficient if you find at any time within that period that all of the elements of the alleged conspiracy have been proved to your satisfaction beyond a reasonable doubt.

The fact that the Government may not have proved that the conspiracy was carried on as early or as long as the indictment alleges is not of any importance as far as the elements of the crime are concerned.

Proof of several separate and independent conspiracies is not proof of a single conspiracy charged in the indictment unless one of those conspiracies proved is the single conspiracy charged in the indictment.

What you must determine as to this first element regarding the formation of the conspiracy is whether the conspiracy charged in the indictment existed between two or more of the alleged conspirators. If you find that no such conspiracy existed, then you must acquit both of the defendants on count one.

In determining whether the alleged conspiracy exists, you may consider what the evidence shows as to changes in personnel and activity. However, you may find a single conspiracy even though there were changes in personnel or activities during the time of its existence.

If you satisfy yourselves beyond a reasonable doubt that the conspiracy as alleged in the indictment existed, then you must determine as to each defendant whether he knowingly and wilfully was an active participant in the unlawful plan, with the intention of furthering its objectives. Mere knowledge of an illegal act on the part of some other defendant or an alleged co-conspirator is not sufficient. Merely acting in a way which incidentally furthers the purpose of a conspiracy, without knowledge that a conspiracy exists, does not make a person a member of the conspiracy.

The scope of each defendant's agreement must be determined individually from what was proved as to that defendant.

You may find that a defendant acted knowingly and wilfully if he acted voluntarily and purposely and with specific intent to do something which the law forbids. That is to say, he must have acted with evil motive or bad purpose to disobey or disregard the law and not because of negligence, mistake, inadvertence or other innocent reason.

It is obviously impossible to ascertain or prove directly what a person knew or intended. You cannot look into a person's mind and see what his intentions were and what he

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knew, but a careful and intelligent consideration of the facts and circumstances shown by the evidence in any given case, as to a person's actions and statements, enables us to infer with a reasonable degree of certainty and accuracy what his intentions were in doing or not doing certain things and the state of his knowledge.

It is not required that each of the conspirators participated in, or have knowledge of, all of the conspiracy's operations. The guilt of a conspirator is not governed by the extent of his participation. He need not know all of the alleged conspirators.

Even if a defendant participated in the conspira[illegible] to a lesser degree than that of his fellow conspirators, or in a relatively subordinate or minor way, he is equally culpable as long as he became a member of the conspiracy with knowledge of its general scope or purpose. Nor is it necessary that a defendant receive pecuniary benefit from his participation in the conspiracy as long as he in fact was a member of the conspiracy.

It is not necessary that all [illegible] conspirators have participated in the alleged conspiracy from its inception. A person who comes in at a later point with knowledge of the conspiracy's general operation, although not necessarily of all its details, and who intentionally

acts in a way to further the unlawful goals, becomes a member of the conspiracy and is legally responsible for all that may be or has been done in furtherance of the common criminal objective.

In determining whether or not a particular defendant was a member of the conspiracy, you may consider evidence of his own acts, statements and conduct, as well as the evidence of the acts, statements and conduct of other alleged co-conspirators and the reasonable inferences to be drawn from such evidence, provided you find that such acts or statements of a co-conspirator were made during the course of the conspiracy and in aid of or in furtherance of its alleged purpose.

What I have just told you, however, is subject to one limitation. You will recall that on several occasions you were specifically told that certain evidence was admitted solely with respect to the defendant Weisman. You are instructed to consider such testimony only with respect to Mr. Weisman and you must not consider such testimony in the slightest degree in your discussions and deliberations with relation to Mr. Lassoff.

If, after considering each defendant separately, you find that he was not a member of the conspiracy alleged in the indictment, or is a member of some other

conspiracy than the one alleged in the indictment, then you should acquit that particular defendant on count one.

Thus, it is possible for you to find that neither of the defendants, or one of the defendants, or both of the defendants on trial, were members of the single conspiracy alleged in the indictment.

The next element that must be proved on this issue of conspiracy is the requirement of an overt act. You may not find a defendant guilty of conspiracy unless you are convinced beyond a reasonable doubt that one of the conspirators knowingly committed one of the overt acts charged in the indictment.

The Government need not prove the commission of all of the overt acts charged in the indictment.

By the term "overt act" is meant any act committed by one of the conspirators in an attempt to effect some object or purpose of the conspiracy. It must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the indictment.

The overt act need not be criminal in nature if considered separately and apart from the conspiracy. It may be as innocent as the act of a man walking across the street or using a telephone.

The overt acts referred to in this indictment

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referable to the defendants on trial here are:

First, in or about January 1971,Robert Santis and Stephan Zardus entered the Plaza Hotel in New York City.

Second, on or about February 22, 1971,Stephan Zardus entered the Pier 52 Restaurant in New York City.

Third, on or about March 1, 1971,defendant Robert Santis delivered two cashiers checks payable to "Louis Greenblatt."

Fourth,on or about May 3, 1971, defendant Samuel Weisman had a conversation.

Fifth, on or about May 4, 1971, Harold Lassoff had a conversation.

The fact that a particular defendant is not named in an overt act is of no importance because once you find that a conspiracy existed and that a defendant on trial was a member of the conspiracy, then he is bound by the acts done and statements made by any other member in furtherance of that conspiracy, even in the absence of such defendant.

Once you have determined that the offense has been established under the guidelines I have just given you, then the crime of conspiracy is complete as to every person found by you to have been knowingly and wilfully

a member of that conspiracy.

Furthermore, at this point the success or failure of the conspiracy to effect the common object or purpose is immaterial.

The Government witnesses, Hellerman and Zardus, admitted from the witness stand that they agreed to engage in an illegal course of conduct to manipulate the price of the stock of Automated Information Systems, Inc. If you believe their story -- they were guilty of the crime of conspiracy.

You must first determine if you agree an agreement existed among those witnesses. Then the question for you to resolve under this first count of this indictment is whether a defendant on trial here was also a member of that conspiracy.

The next count in this indictment which you will consider is known as count three. It charges that each of the defendants on trial before you actually violated Section 10(b) of the Securities Act of 1934 and Rule 10b-5 of the Securities and Exchange Commission. This count is directed to the alleged activities of both defendants in connection with agreements regarding the purchase and sale of Automated stock in May 1971.

You will recall that the conspiracy count of

the indictment charges that one of the purposes or objects of the conspiracy was to violate this Section 10(b).

In order for you to find a defendant guilty under this count, you must be convinced beyond a reasonable doubt of the following three elements:

First, that the defendant, in connection with the purchase and sale of Automated stock, employed any device or scheme to defraud, or engaged in a course of business which operated or would operate as a fraud or deceit upon any person.

Second, that the defendant did so knowingly and wilfully.

And, third, that the defendant used or caused to be used the mails or the telephones in furtherance of the scheme.

Insofar as the first element which must be proved beyond a reasonable doubt is concerned, the language describing this element is largely self-explanatory.

Thus, a "scheme" is merely a plan for the accomplishment of an object.

"Fraud" is a term which embraces all the possible means which human ingenuity can devise and which are resorted to by one individual to gain an advantage over

another by misrepresentation, false suggestions or by suppression of the truth.

Consequently, a "scheme to defraud" is merely a plan to obtain money or property or some advantage of value by trick or deceit.

This first element is also satisfied if you find that the defendant engaged in a course of conduct which would operate as a fraud or deceit on another person.

In order to sustain the Government's contention on this element of the crime, you must find that Weisman and Cohen purchased the stock or subsequently agreed to hold it for the purpose of aiding Hellerman in making his scheme work to defraud innocent purchasers of Automated stock. His goal was to rig the market through control of the box -- a term which has been defined for you in the testimony -- and run the price of the stock up to $15 or $20 a share -- far above its true value. If this goal were achieved, the stock would be dumped on the unsuspecting public and Hellerman and his confederates would walk away with a huge profit.

In determining whether there was a scheme to defraud, it is not necessary for the Government to prove that any of the purchasers of the stock suffered damage

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as a result of the fraudulent scheme. It is not necessary to show that either of the defendants benefited financially or otherwise from participation in a fraudulent scheme.

On the other hand, it does not follow that simply because Hellerman and the defendants may have agreed to sharing the profits or losses that might follow the purchase of the stock, the defendants were part of a scheme to defraud.

Insofar as the second element is concerned -- that a defendant must have acted knowingly and wilfully -- what I have said before in connection with the conspiracy count about the words "knowingly" and "wilfully" applies equally as well to this count.

The third element which must be proved beyond a reasonable doubt is that the defendant used, or caused to be used, the mails or the telephones in furtherance of the scheme. This involves a question of credibility since there has been testimony on this trial that the telephone was used in connection with many of the transactions.

It is not necessary for the Government to prove that a defendant actually placed or received in the mail any of the matters specified in the indictment or used the telephone. It is sufficient for the Government to

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prove that the defendants caused the mailing to be made or the telephone to be used in the ordinary course of business provided you find that the mailing or telephoning was made in furtherance of the scheme.

Thus, if a defendant knows or could reasonably foresee that his actions would naturally and probably result in the use of the mails or telephones, then he has caused the mails or the telephones to be used.

Now, in connection with the charges contained in this count, it is not necessary for the Government to prove that each defendant personally did each of the acts constituting the essential elements of the crime. This is so because anyone who knowingly aids, abets, communicates, induces or procures the commission of a crime against the United States is punishable as a principal.

The Government does not contend that Weisman and Lassoff personally employed a scheme or device to defraud in connection with the purchase and sale of Automated stock. Rather, the Government contends that these defendants aided and abetted other persons, to wit, Hellerman, in committing the fraudulent acts charged.

In order for a defendant to aid or abet another to commit a crime, it is necessary that he wilfully associate himself in some way with the criminal venture

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knowing that the object of this venture was to manipulate the stock of Automated, that he wilfully participate in it as something that he wishes to bring about, and that he wilfully seek by some action of his to make it succeed.

Mere presence and guilty knowledge on the part of a defendant that a crime is being committed is not sufficient to find him guilty unless you are also convinced beyond a reasonable doubt that the defendant was doing someting to forward that crime -- that he was a participant rather than merely a knowing spectator.

You will recall that count one alleged that one of the objects of the conspiracy was to violate Section 1341 of Title 18 which is commonly known as the federal mail fraud statute.

Count six of the indictment charges the defendant Weisman with actually having caused the mails to be used for the purpose of executing a scheme to defraud purchasers of the stock of Automated Information Systems.

Count seven charges both defendants with having violated this statute.

The purpose of this statute is to prevent persons from using the United States mails to defraud its citizens.

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Each count which you must consider charges a separate violation of this statute.

Each count alleges that on or about a certain date, the defendant named therein unlawfully, knowingly and wilfully did devise a scheme to defraud purchasers of the stock of Automated Systems and to obtain money and property from these persons by means of false and fraudulent representations, and for the purpose of executing this scheme did cause to be placed in the mail matter to be sent and delivered by the Post Office Department.

Specifically, each count refers to a confirmation of purchase of various amounts of shares of Automated stock which had been sent to the purchaser named in that particular count.

Count six charges that Weisman violated the mail fraud statute when on May 3, 1971 a confirmation of purchase of 500 shares of Automated was sent by mail to Samuel Weisman.

Count seven charges that both defendants violated the mail fraud statute on May 4, 1971 when a confirmation was sent by mail to Martin Cohen.

In order for you to find a defendant guilty of a particular mail fraud count, you must find beyond a reasonable doubt as to the defendant in question both of

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the following elements:

First, that the defendant knowingly and wilfully devised a scheme to defraud purchasers of Automated stock by means of false or fraudulent representations;

Second, that for the purpose of furthering that scheme, a member of the scheme caused the confirmation of purchase named in the particular count to be delivered by mail to the person mentioned in the count on or about the date set forth.

Now, the first element of the offense charged is that a defendant knowingly and wilfully devised a scheme to defraud or to obtain money by false or fraudulent pretenses, representations or promises.

The word "false," as used in the indictment, means that the claim was untrue when made and was then known to be untrue by the person making it or causing it to be made.

The word "fraudulent," as used in the indictment, means that the claim was falsely made or caused to be made with the purpose and with the intent to deceive.

A fraudulent scheme may also exist if there is an intent to deceive and only half-truths are used, or there is a concealment of material facts.

What I have said previously about the words

"knowingly," "wilfully," and "scheme to defraud," applies equally as well to these other two counts.

A scheme, within the meaning of the mail fraud statute, is similar to conspiracy. Therefore, much of what I have said previously about a conspiracy and membership in a conspiracy in discussing count one applies also to the scheme charged in counts six and seven, and I do not think it necessary to further elaborate on them.

In order to find that a scheme to defraud existed and that a particular defendant was a member of it, you must be convinced beyond a reasonable doubt that the scheme, as described in the particular count in the indictment, was formed and existing at the time the confirmation was mailed, and that a defendant knowingly and wilfully was a member of the scheme at that time.

The second element in the mail fraud counts to be proved beyond a reasonable doubt is that the mails were used for the purpose of furthering the scheme. You must determine whether the confirmations of purchase referred to in the indictment were delivered by mail to the persons named on or about the dates specified, and whether this was caused by a defendant to further a scheme to defraud.

As I have said before, it is not necessary for

the Government to prove that the defendant knew or directly participated in these mailings. It is sufficient if you are convinced beyond a reasonable doubt that a defendant participated in the scheme to defraud and that he could have reasonably foreseen that the mails would be used to send these confirmations in furthernace of the scheme, even if the mailing was actually done by someone entirely unconnected with the scheme.

I have discussed with you under the count charging a violation of the federal securities law the concept of a defendant being guilty of a charge because he aided and abetted the commission of a crime. What I said there applies equally as well in determining the guilt or innocence of each defendant under these counts charging violation of the mail fraud statute.

In determining the guilt or innocence of a defendant, you must decide that question solely from the evidence you heard from the witness stand and the exhibits that have been placed before you.

The summations of counsel which you have heard are not to be considered as evidence, but only as argument to you as to what counsel feel you should find from the evidence. In determining the issues in this case, it is your recollection of the testimony that is to control and

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not that of counsel or Court.

If during the course of the trial I sustained an objection by one counsel to a question asked by the examining counsel, you are to disregard the question and any alleged facts contained in that question and you may not speculate as to what the answer would have been.

If a question was asked and an answer given by the witness and I have then stricken the answer from the record, you are to disregard both the question and the answer in your deliberations.

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence -- such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, which is proof of a chain of circumstances pointing to the existence or non-existence of certain facts.

Circumstantial evidence is the proof of facts from which you may reasonably infer a material element of a crime.

Let us take a simple example to illustrate what is meant by circumstantial evidence. Mr. Walker gave you his example yesterday, but I really think mine is better.

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We will assume that when you entered the courthouse this morning the sun was shining brightly outside, it was a clear day and there was no rain. Now assume that in this courtroom the blinds are drawn and the drapes are drawn so you cannot see outside. Assume as you are sitting here in this jury box, and despite the fact that it was dry when you entered the building, someone walks in with an umbrella dripping water, followed in a short time by a person wearing a raincoat which is wet.

If you are asked whether it is raining now, you cannot say that you know it directly of your own observations. But certainly, upon the combination of facts which I have stated to you, even though when you entered the building it was not raining outside, it would be reasonable and logical for you to conclude it is raining now.

That is about all there is to circumstantial evidence.

You may draw such inferences as reason and common sense lead you to draw from facts which you find to have been proved. Great care must be exercised in drawing inferences from circumstances proved in criminal cases and mere suspicions will not warrant a conviction.

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However, no greater certainty is required of circumstantial evidence than is required of direct evidence. It is not on any different or lower plane than direct evidence. The law simply requires that in either case you must be convinced beyond a reasonable doubt of the guilt of a defendant.

In your search for the truth, you must use plain everyday common sense. You must not be governed by sympathy, bias or prejudice. You have seen the witnesses on the stand and observed their manner of giving testimony When I refer to witnesses, I, of course, include the defendant Weisman who has testified here.

How did the witnesses impress you? Did they appear to be testifying frankly, candidly and fairly?

In determining what degree of credit you should give a witness' testimony, you may consider his conduct, his manner of testifying and his interest in the outcome of the trial.

You should also consider his relationship to the Government or the defendant, his bias or impartiality and any motive he may have to testify falsely. It does not necessarily follow, of course, that because a person is interested in the result, he is incapable of telling a truthful version of an occurrence.

The defendant Weisman has testified in this case. A defendant who wishes to testify is a competent witness and his testimony is to be judged the same way as any other witness.

You have heard the testimony of Michael Hellerman and Stephan Zardus who have admitted from the witness stand that they were engaged in illegal conduct and testified that the defendants on trial were active participants in this venture.

The testimony of alleged accomplices should be received with great caution and scrutinized with care. This does not mean that such testimony, if believed by you, is of any different or lesser quality than any other evidence. It should be considered by you after giving whatever weight you think it deserves along with all the other evidence in the case in determining whether the guilt of a defendant has been proved beyond a reasonable doubt.

You may find a verdict of guilty solely on the uncorroborated testimony of an accomplice if you believe that testimony beyond a reasonable doubt.

If you believe that a witness wilfully testified falsely as to any material fact, you may disregard his testimony altogether or you may accept that part of his

testimony which you believe worthy of credence. What you accept or reject as credible evidence is for you to determine, but you may not go outside the evidence and speculate as to the facts.

The quality of the testimony of the particular witnesses, regardless of who calls them, rather than the quantity of witnesses, is the testimony to be used in arriving at your decision. There is no presumption that the witnesses for the Government are more or less truthful or credible than the witnesses for the defendants.

Evidence that a witness has been convicted of a crime may only be considered by you in assessing his credibility as a witness and the weight which you will give to his testimony.

You should consider a witness' entire testimony his direct examination, his cross-examination and his redirect examination. You should consider the strength or weakness of his recollection in light of all the testimony and attendant circumstances in this case.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit such testimony. Two or more persons witnessing an accident or a transaction may see or hear it differently.

Innocent misrecollection, like failure of recollection, is not an unusual experience.

In weighing the effect of a discrepancy, consider whether it pertains to a matter of importance or to an unimportant detail and whether the discrepancy results from innocent error or wilful falsehood.

You will recall that certain witnesses were asked about statements which they made under oath prior to trial and which it is claimed appear to be inconsistent with their testimony at this trial.

If a witness at a trial affirms under oath the truth of a prior inconsistent statement under oath, the earlier statement may be considered by you both as affirmative proof of the facts contained in it, as well as bearing on the credibility of the witness.

A prior inconsistent statement which was made under oath, either to the grand jury, or at some other trial, or before the Securities and Exchange Commission, and which the witness does not specifically reaffirm at this trial may be considered by you solely on the question of the witness' credibility and not as affirmative proof of the facts contained in it.

The defendants Weisman and Lassoff have offered evidence of their reputation in the community prior to the

indictment in this case as being truthful, honest men of integrity and law-abiding citizens. You should consider this testimony along with all the other evidence in the case in determining their guilt or innocence.

Evidence of a defendant's reputation as to those traits of character ordinarily involved in the commission of the crime charged may of itself give rise to a reasonable doubt, since you may think it improbable that a person of good character with respect to those traits would commit such a crime.

However, evidence of good reputation should not constitute an excuse to acquit the defendant, if after weighing all the evidence, including the evidence of good character, you are convinced beyond a reasonable doubt that the defendant is guilty of the crime charged in the indictment.

You may call for any exhibits which you desire to see in connection with your deliberations. You may call for a reading of any portion of the official transcript of the evidence or any portion of this charge.

You are instructed that the question of possible punishment of a defendant in the event of conviction is no concern of the jury and should not in any sense enter into or influence you deliberations. The duty of imposin

sentence in the event of conviction rests exclusively upon the Court. The function of the jury is to weigh the evidence in the case and determine the guilt or innocence of a defendant solely upon the basis of such evidence.

I have sought to avoid any comments which might suggest that I have personal views on the evidence, or that I have any opinion as to the guilt or innocence of either of the defendants, and you are not to assume that I have any such views. This charge is given to you solely to instruct you as to the law applicable to this case.

The actions of the judge during the trial in granting or denying motions or ruling on objections by counsel or in statements to counsel, or in attempting to clarify or set forth the law in connection therewith, are not to be taken by you as any indication of any determination of the issues of procedure and law. You, the members of the jury, determine the facts.

There are twelve members on this jury and all of you just agree upon any verdict which you reach as to each defendant on any count in the indictment.

I must caution you that merely because you may be in the minority in determining any charge in this case does not require you to ultimately vote with the

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majority. You are entitled to maintain your position after full discussion of the issues.

This case is obviously an important one to the defendants. It is equally important to the Government. I am submitting it to you in complete confidence that you will comply with your oath as jurors and decide the case fairly and impartially and without fear or favor.

If there are any exceptions to the charge, I will take them in the robing room.

(In the robing room)

MR. GOULD: If your Honor please, there is something here -- and perhaps I should have noted it yesterday -- this redacted indictment in referring to the overt acts eliminated the references in the overt acts to D here and then from G down to O. Yet they are included here. I think they should be eliminated.

THE COURT: They should be, but we can take care of that. That is not an exception to the charge.

MR. GOULD: No, I realize that.

THE COURT: The Government didn't know what overt acts were going to be used. Nobody moved to strike the overt acts, so I had to do it on my own.

MR. GOULD: I confess we should have done this yesterday, and I just overlooked it in haste. But we will

take care of that.

Now, with respect to your Honor's charge, the only thing that I would like to say about it is in view of the considerable testimony that Weisman knew Hellerman had been involved in other schemes, and so on, to manipulate before we got into the Automated Information, particularly the references to the purchase of Tabby's and Adelman's testimony about that, the testimony about the Imperial Investment and Belmont Franchising material and the testimony that Weisman represented Hellerman first in the proceeding before the Attorney General in the early 1960's -- I think it's 1961 -- and also that he accompanied him to Morvillo's office and in view of the testimony of Hellerman that he at one point gave Weisman a copy of the Imperial indictment, which, of course, Weisman denies, I ask your Honor to charge that even if the jurors should find that Weisman knew of, or even to the extent of Hellerman's testimony, had such participation in any of those prior events, those facts are not evidence or proof whatever that at a later time in connection with Automated Weisman committed the offenses charged in this indictment

Evidence as to such facts may not, therefore, be considered by the jury in determining whether Wiesman is guilty or innocent of the offense charged in this

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indictment.

Similarly, I ask your Honor to charge that if Weisman knew that Hellerman did engage in manipulative schemes before May of 1971, or knew of accusations or indictments against Hellerman in connection with his dealings in securities, that that fact of his knowledge is not evidence or proof that Weisman committed the offenses charged in this indictment and should not be considered by them in determining whether Weisman is guilty or innocent of those offenses.

THE COURT: Of course, these are new requests to charge that should have been in at least on Friday.

MR. GOULD: No, your Honor, these are occasioned principally by the emphasis that was placed by Mr. Walker in his summation.

THE COURT: They are denied, in any event.

MR. GOULD: I have nothing more, your Honor.

THE COURT: Mr. Hawke.

MR. HAWKE: Your Honor, I respectfully except to your Honor's charge on the sharing of profits. Your Honor charged that it doesn't follow because there was an agreement to share profits that the defendants are part of the scheme to defraud. I request the Court to go beyond that, to charge that an agreement to share profits in and

of itself is not unlawful, because I think there may be some confusion in the jury's mind on that. They may think that was improper. I think they should be instructed that it was not.

THE COURT: I think they were adequately instructed on that.

MR. HAWKE: I respectfully except to your Honor's charge on the inference which may not be drawn from defendant's failure to testify. My objection here, your Honor, is not that I object to a charge of that sort being given, but the use of the expression "no presumption of guilt may be raised," because I think that detracts from the presumption of innocence.

THE COURT: You allowed me to charge any inference could be drawn. The only inference to be drawn is no presumption of guilt.

MR. HAWKE: My request, your Honor is -- it may be too late now because I don't want to highlight it too much -- but simply the jury be charged you cannot make any inference whatsoever from the fact, not --

THE COURT: It is a standard charge since I have been on the bench -- and I copied it from Judge Dawson, and I am sure he copied it from a predecessor of his, and I think you will find it in the 25 charges given by the 25 judges of this court.

Anything else?

MR. HAWKE: No. Overall, I respectfully except to the Court's failure to charge as requested.

MR. GOULD: I forgot to say I respectfully except to your Honor's refusal to charge as suggested.

(In open court)

THE COURT: At this point, Mrs. Jacobs and Mr. Avery, you leave us. Thank you for being with us, but you do not participate in the deliberations.

Will you kindly report back to Room 109?

(Deputy marshal sworn)

THE COURT: Mr. Jackson, ladies and gentlemen of the jury, you may now follow the marshals to commence your deliberations.

* * *

United States of America vs.

United States District Court for THE SOUTHERN DISTRICT OF NEW YORK

DEFENDANT: SAMUEL WEISMAN

DOCKET NO.: 73 cr. 903

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date — MONTH 1 DAY 7 YEAR 1975

[ ] WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[X] WITH COUNSEL Milton Gould Esq. (Name of counsel)

PLEA

[ ] GUILTY, and the court being satisfied that there is a factual basis for the plea, [ ] NOLO CONTENDERE, [ ] NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of [ ] NOT GUILTY. Defendant is discharged [X] GUILTY.

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully and knowingly by use of interstate commerce and the mails, use and employ manipulativ deceptive devices and contrivances in contravention of the rules and regulations of the United States Securities and Exchange Commission. (Tit.15,U.S.C. Sect.78j(b) and 78ff: Tit.18,U.S.C. Sect.2.) and: devise a scheme and artifice to defraud by means of false and fraudulen pretenses.(Tit.18,U.S.C. Sect.1341 and 2.) and: a conspiracy so to do (Tit. 18, U.S.C. Sect.371)

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that [illegible]

the defendan pay a fine of $5,000.00 to cover each of counts, (1), (3) (6) and (7).

The total sum of the fine being,$5,000.00 (non-committed) to be paid within (30) days from the date of this order.

The defendant is continued R.O.R. pending appeal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY [X] U.S. District Judge [ ] U.S. Magistrate

Charles M. Metzner

U.S. DISTRICT COURT FILED JAN-7 1975 S.D. OF N.Y.

Date 1-7-75

1038

United States District Court for THE SOUTHERN DISTRICT OF NEW YORK

DEFE[N]T

Samuel Weisman — DOCKET NO. 73 cr. 903

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH | DAY | YEAR

COU[N]SEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☐ WITH COUNSEL (Name of counsel)

PLEA ☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, ☐ NOT GUILTY

There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged ☐ GUILTY.

FINDING/JUDGMENT ~~[illegible]~~ On this 20th day of January, 1975, this Court pursuant to Rule 36 of the Federal Rules of Criminal Procedure, corrects its' judgment of January 7,1975 as indicated below *

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that ~~The defendant~~

SENTENCE AND PROBATION ORDER

*the defendant pay a fine of $5,000.00 to cover each of counts (1) and (3).

The total sum of the fine being, $5,000 00 (non-committed) to be paid within (30) days from the date of this order.

The defendant is continued R.O.R. pending appeal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON THIS DATE 1-20-75

BY ( ) CLERK X ( ) DEPUTY

SIGNED BY

X ( ) U.S. District Judge

( ) U.S. Magistrate

CHARLES M. METZNER

Date 1-20-75

RKP

THE CLERK: For sentencing: United States of America versus Samuel Weisman.

MR. WALKER: Government is ready.

MR. GOULD: Defendant is ready.

If your Honor please, with respect to the motions, a copy of which your Honor received, which you requested yesterday --

THE COURT: I have read your motion papers, Mr. Gould.

MR. GOULD: What I wanted to suggest: I didn't want to take the Court's time to repeat the motions orally.

THE COURT: I will take the motions as having been made pursuant to the papers which you served upon the Court yesterday, and they are denied.

MR. GOULD: That is all I anticipated. You didn't want to hear oral argument on them, and I could not say anything different or better than what is said here.

THE COURT: We will have the clerk file those so they become part of your record.

Mr. Walker, do you have anything to say before the Court imposes sentence on Mr. Weisman?

MR. WALKER: The Court heard all of the evidence at the trial and has received a full and complete pre-sentence report and, I believe, has received a sentencing memorandum

that was submitted by the Government and served on the defense.

The Government has nothing further to add to these materials.

THE COURT: Mr. Gould, do you have anything to say before the Court imposes sentence?

MR. GOULD: There is very little I can say, your Honor, that is not so manifest that it is a waste of the Court's time to repeat it.

Your Honor, I know, has an extensive probation report, which gives you the full background of this man. I think that in the circumstances, this is a situation which calls for the highest degree of compassion and mercy on the part of the Court. I don't see any purpose in an extended argument.

THE COURT: Mr. Weisman, do you have anything to say before the Court imposes sentence upon you?

THE DEFENDANT: If your Honor pleases, I appeared before the grand jury and gave testimony, and before the grand jury I offered to take a lie detector test at my own expense by a company designated by the Government and have Mr. Hellerman take a lie detector test and I would pay for it. I make the same offer today, if your Honor pleases. I am willing to take a lie detector test, have Mr. Hellerman take a lie detector test. I am willing to abide by the results of the test.

I would agree not to take an appeal and would abide by any sentence your Honor imposes if the lie detector test should in any way prove that I misstated the facts or lied to the grand jury or lied on the witness stand. I am perfectly willing to do that, and I am happy to do that. I hope I will be given an opportunity to do that.

THE COURT: Mr. Weisman, as you know, our system of justice is not conducted in finding the truth through the use of lie detector tests. We have had twelve jurors sitting here listening to all the evidence, and our system says that whatever those twelve people, who represent the community, claim is the truth is the truth, not what a lie detector test says.

Your offer, of course, is something that the United States Attorney could or could not have taken advantage of if he wanted to prior to the filing of the indictment, but, the indictment having been found, the only procedure left is for a jury to listen to the testimony and make up its mind, and they are the final arbiters on the question of fact.

DEFENDANT WEISMAN: I fully understand that, but I thought perhaps your Honor would take that into consideration and all the facts in the case. I am willing to do that, because in my own conscience I know exactly what I did, and I know I did not lie, and I know that the statements that Mr.

Hellerman made on the witness stand were not the truth. He was out to get me, as he stated, and the story concocted -- that is why I am willing to take a lie detector test.

THE COURT: As I indicated, that is not possible at this stage of the proceedings.

DEFENDANT WEISMAN: That is as much as I have to say.

THE COURT: It is normally my practice in such cases to impose a sentence of incarceration if a jury finds a defendant guilty after trial. In this type of charge, However, I am thoroughly familiar with your physical background, there having been two examinations conducted by three doctors, as I recall, on applications made in the past for adjournments of the trial of this case, two adjournments having been granted because of their reports.

One of the doctors was appointed by the Court, and he agreed with the doctor who had submitted an affidavit on your behalf, and it is because of that fact, because of your age, that I will not impose any sentence of incarceration.

However, I do impose a fine of $5,000 on each of the counts, that is, one fine of $5,000.

You can have thirty days in which to pay it.

Mr. Gould, under the rules of the Second Circuit, I must advise you that if your client wishes to take an appeal

you are required to file a notice of appeal on his behalf.

MR. GOULD: There is every intention to take an appeal.

THE COURT: You understand that. If you wish an appeal to be taken, you merely need direct Mr. Gould to file an appeal, and he is under obligation, pursuant to my direction, to file such an appeal.

MR. GOULD: That will be done, your Honor.

THE COURT: Present bail is continued. I assume he is released on his own recognizance?

MR. GOULD: Yes.

THE COURT: All right.

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A 202 Affidavit of Personal Service of Papers — LUTZ APPELLATE PRINTERS, INC.

UNITED STATES COURT OF APPEALS
FOR THE ~~XXXXXXX~~ SECOND DISTRICT

THE UNITED STATES,

Plaintiff-Appellee,

- against -

SAMUEL WEISMAN,

Defendant-Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF New York *ss.:* New York

I, Victor Ortega, *being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at* 1027 Avenue St. John, Bronx, New York
That on the 10th *day of* March *19*75 *at* Foley Square, United States Courthouse, New York, N.Y.
deponent served the annexed Appendix *upon*

Paul J. Curran, U.S. Attorney for the Southern District of New York

the Attorney *in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the* Attorney(s) *herein.*

Sworn to before me, this 10th
day of March *19*75

Victor Ortega

VICTOR ORTEGA

ROBERT T. BRIN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31 - 0418950
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1975